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Barbara said Stennis ltr to go to Stennis only  
and not to Braswell!!!

Re attached--apparently GLC & DCI talked &  
GLC is going to do a draft.

SENDER WILL CHECK CLASSIFICATION TOP AND BOTTOM			
	UNCLASSIFIED	CONFIDENTIAL	SECRET
<b>OFFICIAL ROUTING SLIP</b>			
TO	NAME AND ADDRESS	DATE	INITIALS
1	Director	9/23	mc/bp
2			
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6			
	<b>ACTION</b>	<b>DIRECT REPLY</b>	<b>PREPARE REPLY</b>
	<b>APPROVAL</b>	<b>DISPATCH</b>	<b>RECOMMENDATION</b>
	<b>COMMENT</b>	<b>FILE</b>	<b>RETURN</b>
	<b>CONCURRENCE</b>	<b>INFORMATION</b>	<b>SIGNATURE</b>
<b>Remarks:</b> I have covered the waterfront in this list of <u>items for your call to Stennis</u> but thought you could pick and choose from them. You might also try to get him to focus on the NID a little more by calling his attention to specific items that you think are significant.			
<div style="border: 1px solid black; width: 200px; height: 40px; margin: 0 auto;"></div> George L. Cary Legislative Counsel			
<b>FOLD HERE TO RETURN TO SENDER</b>			
<b>FROM: NAME, ADDRESS AND PHONE NO.</b>			<b>DATE</b>
OLC 7D43			23 Sept 74
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STAT

Trip

Items for Discussion with Senator Stennis

1. Interesting aspect of Baker/Weicker joint committee proposal - (S. 4019)-would intermingle law enforcement (FBI and Secret Service) and foreign intelligence functions (CIA, DIA, NSA) in the same joint committee.
2. Senator Mondale's proposal (S. Res. 404) for a select Senate committee on intelligence policy--we are preparing response to Stennis' request for our views--our interim view is that if there is real pressure for some action before adjournment this might be the best stop gap measure. NOTE: Appropriations Committee should be consulted; they would not be directly represented on the select committee as now proposed by Mondale.
3. We should have exchange of letters he requested on legislation amending the National Security Act in Braswell's hands today (Monday).
4. Your scheduled meeting with Saxbe on Wednesday on sources and methods legislation.
5. Abourezk amendment to Foreign Aid authorization bill to preclude contact with foreign police, law enforcement or internal security services.

a. Foreign Relations Committee dropped "or any other law" from the amendment on basis of DCI's letter before the amendment

was adopted by the Committee.

b. Abourezk wrote DCI a letter and asked him at Fund for Peace Conference for further explanation.

c. OLC has talked with Abourezk's staff without apparent progress. DCI is sending letter to Abourezk.

d. Abourezk has filed an amendment for floor consideration to restore the words deleted by Senate Foreign Relations Committee.

e. Kissinger has requested that action on aid bill be delayed for other reasons but Abourezk amendment would be very troublesome.

f. We are discussing matter with Foreign Relations staff and may take up with the Senator who will manage the bill on the floor (this may be Senator Sparkman).

6. Briefing of Mahon Subcommittee on Chile this Tuesday at 11:00.

7. Meeting with Kissinger, Morgan, Hebert, Nedzi, Frelinghuysen and Bray this Wednesday at 5:00.

services may also be procured by firm-term multiyear contracts. The description of automatic data processing equipment in subsection (1) is compatible with the General Accounting Office interpretation of automatic data processing equipment as it is used in the Brooks bill.

#### V. HEARINGS

One day of public hearings were held by the Ad Hoc Subcommittee on Federal Procurement, March 27, 1974, during which the following four witnesses testified:

Hon. CHARLES H. PERCY, a United States Senator from the State of Illinois.

PETER F. MCCLOSKEY, President, Computer and Business Equipment Manufacturers Association.

MICHAEL CREEDON, President, Computer Lessors Association.

M. SHY MEERER, Commissioner, Automated Data and Telecommunications Services, General Services Administration.

In lieu of testimony, GAO submitted its April 30, 1971 report on multiyear leasing and Government-wide purchasing of ADP equipment (B-115369)<sup>1</sup> and its written views and recommendations on S. 2785 (B-151204, March 26, 1974). Both of these documents are included in the Committee record of the hearings.

#### Summary of testimony

All four of the witnesses voiced strong support of the bill's objective of giving GSA authority to enter into multiyear leases through use of the ADP Fund without obligating the total anticipated payments under the lease. They said that the Government should avail itself of the advantages of multiyear contracting in the same manner and extent as private business and industry.

There was also agreement by the witnesses that the legislation should facilitate the widest possible use of the multiyear leasing authority without interfering with the controls and authorities provided by Public Law 89-306. The Computer and Business Equipment Manufacturers Association suggested that this could best be done by granting all agencies the authority to make multiyear leases as prescribed by the bill. The position of the General Services Administration was that the objective could best be accomplished by retaining the ADP Fund as the single source of funding for firm-term multiyear ADP contracts. After reviewing all facets of the problem, the Subcommittee determined that delegation by GSA to other agencies to cite and obligate the ADP Fund in firm-term multiyear contracting would achieve the objective sought by CBEMA, while retaining the integrity of the central management concept prescribed by Public Law 89-306.

Another point on which there was general agreement was the need to clarify that the authority to enter into multiyear leases applies not only to leases for hardware, but also to contracts for software development and other related services and supplies. This was accommodated by the addition of subsection (1).

#### FOOTNOTES

<sup>1</sup> U.S. Comptroller General, *Multiyear Leasing and Government-wide Purchasing of Automatic Data Processing Equipment Should Result in Significant Savings*, Washington, U.S. General Accounting Office, B-115369, April 30, 1971.

<sup>2</sup> Senate Committee on Government Operations, *Automatic Data Processing Equipment*, Report of the Committee, Senate Report 89-933, 89th Congress, 1st Session, 1965, page 38.

<sup>3</sup> The Report of the Commission on Government Procurement, December 1972, Vol. 3, pages 48-49.

<sup>4</sup> See note 2, *supra*, pp. 21, 28, 30.

<sup>5</sup> See appendix A.

<sup>6</sup> See appendix B.

<sup>7</sup> See appendix C.

<sup>8</sup> See note 1, *supra*.

#### GOOD NEIGHBOR DAY

The joint resolution (S.J. Res. 235) to authorize and request the President to issue a proclamation designating the fourth Sunday in September of each year as "Good Neighbor Day" was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President is authorized and requested to issue a proclamation designating the fourth Sunday of September of each year as "Good Neighbor Day", and calling upon the people of the United States and interested groups and organizations to observe such day with appropriate ceremonies and activities.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93-1156), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

#### EXCERPT

##### PURPOSE

The purpose of the joint resolution is to authorize and request the President to issue a proclamation designating the fourth Sunday of each year as "Good Neighbor Day."

##### STATEMENT

Our Nation is undergoing a cultural revolution together with a steady exodus from the intercity to suburban areas and out of such movement there is created a need for cooperation in the building of new communities and happier quality of life for all.

A Presidential proclamation designating a "Good Neighbor Day" would encourage all people to practice brotherly love and to produce a lasting peace and a better world.

The committee is of the opinion that this resolution has a meritorious purpose and accordingly recommends favorable consideration of Senate Joint Resolution 235, without amendment.

#### ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. TOWER. I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time be charged against the time allotted to me under the order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). Without objection, it is so ordered.

#### ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee (Mr. BAKER) is recognized for not to exceed 5 minutes.

#### PROPOSED ESTABLISHMENT OF A JOINT COMMITTEE ON INTELLIGENCE OVERSIGHT

Mr. BAKER. Mr. President, I, along with Senators WEICKER, HART, CHURCH, MANSFIELD, HUMPHREY, CRANSTON, MONTANA, INOUE, BROOKE, PEARSON, and JAVITS, send to the desk for appropriate reference a bill to create within the Congress a Joint Committee on Intelligence Oversight.

This legislation establishes a 14-member joint House-Senate committee, not dissimilar to the Joint Committee on Atomic Energy, specifically entrusted with primary oversight and legislative responsibility for the Federal intelligence community.

While a Joint Committee on Intelligence Oversight will provide increased assurance that the various intelligence and law-enforcement agencies are abiding by the Constitution and the Federal statutes by which they were created, I believe that the committee also will strengthen our legitimate intelligence gathering capacity through insuring better coordination between the CIA, FBI, Secret Service, DIA, NSA, and other agencies possessing intelligence jurisdiction, and through eliminating much of the current duplication and apparent jealousy and competition in the intelligence community. Moreover, it is hoped that increased congressional oversight would render the intelligence community more responsive to legitimate Presidential and congressional requirements.

My concern regarding congressional oversight of the Federal intelligence community, as well as the extent and thoroughness of the information provided Congress by the intelligence community, stems, in large part, from my service on the Select Committee on Presidential Campaign Activities. Both in the Watergate Committee report and in other select committee documents, there is found a substantial body of evidence regarding the activities of the Central Intelligence Agency, the Federal Bureau of Investigation, the National Security Council, and other governmental intelligence gathering and investigative organizations, which provides insight into the activities, as well as the abuses, of these organizations.

Unfortunately, I believe, the select committee staff investigation or inquiry into the Central Intelligence Agency connection to the Watergate breakin and coverup was effectively ended after we received a letter from Director Colby, dated March 7, 1974, stating that the Agency would make certain critical classified information "completely available to inspection by any member of the CIA Subcommittee of the Senate Armed Services Committee" but that he did not "think it appropriate to turn over to the select committee" any of this material. And the committee was then confronted by another, perhaps more effective, stonewall. I suggest that this is the only instance of a categorical refusal by any agency or department of the Government to cooperate with the select committee. Nevertheless, I directed the committee staff to assemble a report and to file

it with the committee. I delivered a copy of that report to the chairman of the Appropriations Committee and the Armed Services Committee, for the use of their CIA Oversight Subcommittees.

The staff report was later "sanitized" for sensitive and classified material by the CIA. Mr. President, I shall ask unanimous consent that a copy of this "sanitized" report be printed in the Record at the conclusion of these remarks.

Based on that experience, meaning the staff CIA report and other investigations, I believe there is no question that the Central Intelligence Agency was "involved" in Watergate; the question is rather on whose order and for what purpose.

Clearly, the factual circumstances outlined in the staff report are, in many cases, inconclusive and lend themselves to varying inferences and interpretations. I believe, however, that this very uncertainty and the inadequacy of the explanations provided by the CIA, the White House, and the other agencies involved, highlights the need for a more effective, single purpose oversight capability within the Congress of the United States. It seems apparent that current congressional committee oversight does not function effectively as a deterrent to those who may seek to utilize governmental intelligence and investigative agencies for unlawful or unauthorized purposes. I wish to say that I have nothing but the highest respect and regard for the members of the current oversight committees, particularly Senators STENNIS and McCLELLAN, but I think their obvious burdens and responsibilities in the conventional fields of appropriations and armed services are such that their committees are unable to accord more than cursory attention to the oversight function—witness the fact that according to committee staff, the Armed Services Central Intelligence Subcommittee has conducted only two formal meetings during the 93d Congress.

The recommendation of the Select Committee on Presidential Campaign Activities that congressional oversight of the intelligence community be strengthened, as well as my own calling for the creation of a Joint Committee on Intelligence Oversight, were, of course, based on the knowledge before the committee and in the public domain as of July of this year. Since that time, the compelling need for increased congressional oversight has been increased by the recent revelation that there are alleged major discrepancies in sworn testimony submitted to the Senate Foreign Relations Committee by high State Department and Central Intelligence Agency officials regarding covert CIA operations in Chile. Apparently, the House and Senate Foreign Relations Committees were misled regarding the expenditure of \$11 million, as authorized by the so-called Forty Committee, to preserve the opposition press and political parties during the administration of the late Salvador Allende.

This circumstance has prompted, I understand, legislation, including bills introduced by our distinguished colleague

from Minnesota (Mr. MONDALE) and Congressman HARRINGTON, designed to provide for increased congressional foreknowledge and oversight of such activities. I commend them for their efforts. Moreover, displaying remarkable foresight, the distinguished majority leader of the Senate, Senator MANSFIELD, introduced legislation in 1953, 1954, and 1955, to establish a Joint Committee on Central Intelligence. This legislation eventually was defeated on April 11, 1956; but I hope that intervening circumstances now will compel a different result.

In closing, I wish to urge that the 93d Congress enact this legislation, after appropriate committee consideration, before adjournment. I am pleased that, during his most recent press conference, President Ford indicated that he was going to meet with the responsible congressional committees to discuss the need for changes in the intelligence review process; but I think that we need more than a change in the review process, we need a change in the committee structure. Thus, because of the cost, the secrecy, the lack of effective supervision, the uncertainty of domestic activities, and the extreme difficulty in obtaining access to classified materials, I am of the opinion that congressional oversight of governmental intelligence operations must be entrusted to a committee solely charged with that responsibility; and that consideration of this proposal deserves priority consideration in the waning days of this session of the 93d Congress.

Mr. President, I ask unanimous consent that the aforementioned Senate Select Committee staff report and the text of the bill which I am introducing be printed in the Record at this point.

There being no objection, the bill and staff report were ordered to be printed in the Record, as follows:

S. 4019

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Joint Committee on Intelligence Oversight Act of 1974."*

#### ESTABLISHMENT OF JOINT COMMITTEE ON INTELLIGENCE OVERSIGHT

SEC. 2. (a) There is hereby established a Joint Committee on Intelligence Oversight (hereinafter referred to as the "Joint Committee") which shall be composed of fourteen members appointed as follows:

(1) seven members of the Senate, four to be appointed by the majority leader of the Senate and three to be appointed by the minority leader of the Senate; and

(2) seven members of the House of Representatives, four to be appointed by the majority leader of the House of Representatives and three to be appointed by the minority leader of the House of Representatives.

(b) The Joint Committee shall select a chairman and a vice chairman from among its members at the beginning of each Congress. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. The chairmanship and the vice chairmanship shall alternate between the Senate and the House of Representatives with each Congress. The chairman during each even-numbered Congress shall be selected by the Members of the House of Representatives on the Joint Committee from among their number and the chairman dur-

ing each odd-numbered Congress shall be selected by the Members of the Senate on the Joint Committee from among their number. The vice chairman during each Congress shall be chosen in the same manner from that House of Congress other than the House of Congress of which the chairman is a Member.

(c) A majority of the members of the Joint Committee shall constitute a quorum for the transaction of business, except that the Joint Committee may fix a lesser number as a quorum for the purpose of taking testimony. Vacancies in the membership of the Joint Committee shall not affect the power of the remaining members to execute the functions of the Joint Committee and shall be filled in the same manner as in the case of the original appointment.

(d) Service of a Senator as a member or as chairman of the Joint Committee shall not be taken into account for the purposes of paragraph 6 of rule XXV of the Standing Rules of the Senate.

#### DUTIES OF THE JOINT COMMITTEE

SEC. 3. (a) It shall be the duty of the Joint Committee to conduct a continuing study and investigation of the activities and operations of (1) the Central Intelligence Agency, (2) the Federal Bureau of Investigation, Department of Justice, (3) the United States Secret Service, (4) the Defense Intelligence Agency, Department of Defense, (5) the National Security Agency, and (6) all other departments and agencies of the Federal Government insofar as the activities and operations of such other departments and agencies pertain to intelligence gathering or surveillance of persons; and to consider proposals for the improvement and reorganization of agencies and departments of the Federal Government within the jurisdiction of the Joint Committee.

(b) The Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Director of the Secret Service, the Director of the Defense Intelligence Agency, and the Director of the National Security Agency shall keep the Joint Committee fully and currently informed with respect to all of the activities of their respective organizations, and the heads of all other departments and agencies of the Federal Government conducting intelligence activities or operations or the surveillance of persons shall keep the Joint Committee fully and currently informed of all intelligence and surveillance activities and operations carried out by their respective departments and agencies. The Joint Committee shall have authority to require from any department or agency of the Federal Government periodic written reports regarding activities and operations within the jurisdiction of the Joint Committee.

(c) (1) All bills, resolutions, and other matters in the Senate or the House of Representatives relating primarily to the functions of the Central Intelligence Agency, the Federal Bureau of Investigation, the United States Secret Service, the Defense Intelligence Agency, the National Security Agency, or to intelligence or surveillance activities or operations of any other department or agency of the Federal Government shall be referred to the Joint Committee.

(2) No funds may be appropriated for the purpose of carrying out any intelligence or surveillance activity or operation by any office, or any department or agency of the Federal Government, unless such funds for such activity or operation have been specifically authorized by legislation enacted after the date of enactment of this Act.

(3) No bill or resolution, and no amendment to any bill or resolution, and no matter contained in any bill or resolution, in either House, dealing with any matter which is within the jurisdiction of the Joint Committee shall be considered in that House un-

less it is a bill or resolution which has been reported by the Joint Committee of that House (or from the consideration of which such committee has been discharged) or unless it is an amendment to such a bill or resolution. Nothing in this subsection shall be construed to deprive any committee of either House from exercising legislative oversight with respect to intelligence and surveillance activities and operations related to the jurisdiction of such committee.

(4) Members of the Joint Committee who are Members of the Senate shall from time to time report to the Senate, and members of the Joint Committee who are Members of the House of Representatives shall from time to time report to the House, by bill or otherwise, their recommendations with respect to matters within the jurisdiction of their respective Houses and which are referred to the Joint Committee or otherwise within the jurisdiction of the Joint Committee.

#### ADMINISTRATIVE POWERS

Sec. 4. (a) The Joint Committee, or any subcommittee thereof, is authorized, in its discretion: to make expenditures; to employ personnel; to adopt rules respecting its organization and procedures; to hold hearings; to sit and act at any time or place; to subpoena witnesses and documents; with the prior consent of the Federal department or agency concerned, to use on a reimbursable basis the services of personnel, information, and facilities of any such department or agency; to procure printing and binding; to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, and to provide assistance for the training of its professional staff, in the same manner and under the same conditions as a standing committee of the Senate may procure such services and provide such assistance under subsections (i) and (j), respectively, of section 202 of the Legislative Reorganization Act of 1946; and to take depositions and other testimony.

(b) Subpenas may be issued over the signature of the chairman of the Joint Committee or by any member designated by him or the Joint Committee, and may be served by such person as may be designated by such chairman or member. The chairman of the Joint Committee or any member thereof may administer oaths to witnesses. The provisions of sections 102-104 of the Revised Statutes (2 U.S.C. 192-194) shall apply in the case of any failure of any witness to comply with a subpoena or to testify when summoned under authority of this subsection.

#### CLASSIFICATION OF INFORMATION

Sec. 5. The Joint Committee may classify information originating within the committee in accordance with standards used generally by the executive branch in classifying restricted data or defense information.

#### RECORDS OF JOINT COMMITTEE

Sec. 6. The Joint Committee shall keep a complete record of all Joint Committee actions, including a record of the votes on any question on which a record vote is demanded. All records, data, charts, and files of the Joint Committee shall be the property of the Joint Committee and shall be kept in the offices of the Joint Committee or such other places as the Joint Committee may direct.

#### EXPENSES OF JOINT COMMITTEE

Sec. 7. The expenses of the Joint Committee shall be paid from the contingent fund of the Senate from funds appropriated for the Joint Committee, upon vouchers signed by the chairman of the Joint Committee or by any member of the Joint Committee authorized by the chairman.

#### INTRODUCTION

This report is submitted at Senator Baker's request to summarize the highlights of an

investigation of CIA activity, if any, in connection with the Watergate incident and aftermath. It is based on material in the possession of the Committee, both classified and unclassified. It does not attempt to deal with all the matters deemed pertinent and important to a full and complete inquiry, but is designed to generally describe the areas of interest and concern pursued during the staff investigation and executive session interviews since the conclusion of the Committee's public hearings.

In view of the fact that the Committee has chosen to have no further public hearings; that the Committee staff is in the process of being reduced in size; that further cooperation by the Agency seems more likely on the request of the standing jurisdictional committees rather than on the request of the Watergate Committee, and that the total burden of additional work to complete the investigation thoroughly is probably beyond the competence of the remaining staff in terms of numbers and time, Senator Baker requested that this memorandum be prepared for submission to the full Committee for further disposition as the Committee may determine. It is pointed out that, while the report itself is not classified, it makes reference to, and in some instances quotes from, material which is classified. Therefore, each copy of this report has been treated for security purposes as if it were classified. They are numbered and accounted for as in the case of classified material.

The report is broken down into seven categories, tabbed as follows:

(1) *Background*: A recitation of the first references to CIA connections on the part of the Watergate burglars, reference to the possibility of CIA involvement by the President in his speech of May 22, 1973, and certain other published information and correspondence.

(2) *Mullen*: The fact that the Mullen Company and its president, Bob Bennett, had an established relationship with the CIA is described in some detail in this section of the report. Most of the information contained in this section was discovered after Volume IV was requested by Senator Baker. The CIA arranged to release this volume and subsequent documents to the Watergate Committee in the custody of George Murphy serving as security officer for the Committee through an arrangement with the Joint Committee on Atomic Energy.

(3) *Pennington*: This section derives from a CIA supplied memorandum dated February 22, 1974, from the then Director of Security, detailing the information that Lee R. Pennington, a CIA operative, had entered James McCord's house and/or office shortly after the Watergate break-in for the purpose of destroying evidence of a CIA connection with McCord.

(4) *Tapes*: This section derives from information supplied to Senator Baker by Director Colby that there was a central taping capability at the CIA; that the tapes had been destroyed, and the possibility that some of the tapes may have been Watergate related. Director Colby stated that he did not know whether Watergate related tapes had been destroyed.

(5) *TSD*: The initials stand for Technical Services Division of the Central Intelligence Agency, and the section deals with rather extensive contacts between Hunt and the Agency and the support supplied by the Agency to Hunt and Liddy, which was used in a wide variety of undertakings. A number of factual discrepancies appear in this section which cannot be effectively reconciled on the basis of the information we now possess—such as Hunt's receipt of certain Agency technical assistance and contemporaneous participation in the preparation of the Ellsberg psychiatric profile.

(6) *Martinez*: This tab refers to Eugenio

Martinez, one of the Watergate burglars. The section delineates the Martinez-Agency relationship, Hunt's early activities in Miami, the actions taken or not taken by the Agency's office in Miami, and certain unresolved questions.

(7) *Recommendations*: The seventh tab is self-explanatory and constitutes the recommendations of the staff for further inquiry.

#### BACKGROUND

In a speech on May 22, 1973, President Nixon stated in part the following in connection with the Watergate matter:

"Within a few days, however, I was advised that there was a possibility of CIA involvement in some way.

"It did seem to me possible that, because of the involvement of former CIA personnel, and because of some of their apparent associations, the investigation could lead to the uncovering of covert CIA operations totally unrelated to the Watergate break-in.

"In addition, by this time, the name of Mr. Hunt had surfaced in connection with Watergate, and I was alerted to the fact that he had previously been a member of the special investigations unit in the White House. Therefore, I was also concerned that the Watergate investigation might well lead to an inquiry into the activities of the special investigations unit itself."

"I also had to be deeply concerned with insuring that neither the covert operations of the CIA nor the operations of the special investigations unit should be compromised. Therefore, I instructed Mr. Haldeman and Mr. Ehrlichman to insure that the investigation of the break-in not expose either an unrelated covert operation of the CIA or the activities of the White House investigations unit—and to see that this was personally coordinated between General Walters, the Deputy Director of the CIA, and Mr. Gray at the FBI."

One of the matters to which the President was evidently referring was explored by Senator Baker in his questioning of John Ehrlichman when Ehrlichman appeared before the Select Committee on July 26, 1973. Ehrlichman was questioned with regard to missing paragraph five of a memo from Egil Krogh and David Young to John Ehrlichman dated August 11, 1971.<sup>1</sup>

This was the same matter which had been brought to the attention of the Minority staff in July of 1973 which resulted in a briefing of Senator Ervin, Senator Baker, Sam Dash, and Fred Thompson by White House Counsel Fred Buzhardt and Leonard Garment. The subject of that briefing is what is now referred to as the "Admiral Moorer-Yeoman Radford Incident."

With regard to involvement of the CIA in the Watergate affair, it should be noted that since June 17, 1973, there have been numerous newspaper articles pointing out the fact that many of those involved in the Watergate break-in were former CIA employees; that CIA equipment was used by Hunt, and other possible CIA links to Watergate.

In the September 14, 1973, issue of the *National Review*, Miles Copeland wrote an article entitled "The Unmentionable Uses of a CIA", suggesting that McCord led the Watergate burglars into a trap.

In the November, 1973, issue of *Harper's Magazine*, an article entitled "The Cold War Comes Home",<sup>2</sup> by Andrew St. George, indicated strongly that former CIA Director Helms had prior knowledge of the Watergate break-in. As a result of the St. George allegation, Senator Baker asked Senator Symington

<sup>1</sup> See Public Testimony of John Ehrlichman dated July 26, 1973, at 2702-2704.

<sup>2</sup> *National Review*, September 14, 1973, "The Unmentionable Uses of a CIA," at 996.

<sup>3</sup> *Harper's Magazine*, November, 1973, "The Cold War Comes Home," at 82.



and the Senate Armed Services Committee to conduct the inquiry into those allegations. The Senate Armed Services Committee held hearings on this matter and heard testimony from CIA officials that the Agency was not knowledgeable on the Watergate break-in before it occurred; had not led the burglars into a trap; and, that the magazine allegations had no basis in fact.

It would appear that no information relative to this Committee's mandate was developed from the testimony adduced during the hearings before the Senate Armed Services Committee on the St. George matter.

However, in the aftermath of the St. George inquiry, Senator Baker propounded a number of questions to the CIA on November 8, 1973, one of which follows:

7. Question: On or after June 17, 1972, did any of the individuals associated with these break-ins in any way communicate with any individual associated with CIA to discuss the Watergate break-ins or the Ellsberg psychiatrist office break-in, other than Mr. McCord who wrote letters to CIA which are part of the Watergate hearing record?

Answer: On 10 July 1972 an officer of a commercial concern communicated to an employee of CIA information which had come to his attention concerning the "Watergate Five." The relationship of this informant and his company to the Agency was and is classified. Since this information was hearsay, contained a repetition of then current published speculation, and indicated that the informant had appeared before the Grand Jury on the matter, no action was taken. The employee's hand-written memorandum for the record on this matter is contained in sensitive material which Agency officers have made available for review, but not retention, by the staffs of the four CIA Subcommittees as well as the staffs of the Senate Select Committee on Presidential Campaign Activities and the Federal Prosecutor. Aside from this, the Agency had no communication of the type referred to in this question.

An examination of the aforementioned "sensitive material" revealed more than was theretofore known about the scope of the CIA's dealings with Robert Bennett and Mullen and Company and led to a further intensification of the staff's investigative efforts in other CIA-related areas.

#### ROBERT BENNETT AND THE MULLEN AND CO.

The Mullen and Company has maintained a relationship with the Central Intelligence Agency since its incorporation in 1959.<sup>1</sup> It provided cover for an agent in Europe and an agent in the Far East at the time of the Watergate break-in.<sup>2</sup>

Hunt left the CIA in 1970 and joined Mullen and Company with what founder Robert Mullen understood to be Director Helms' blessing.<sup>3</sup> Hunt's covert security clearance was extended by the CIA; he was witting of

the Mullen cover; and, on occasion he undertook negotiations with the Agency with respect to that cover—even after becoming employed at the White House (according to Agency records).<sup>4</sup>

Robert Bennett, who is Senator Bennett's son, joined Mullen and Company and became its President in 1971. He was introduced to the Mullen CIA case officer in April of last year.<sup>5</sup> Bennett brought the Hughes Tool account with him to Mullen.<sup>6</sup> CIA records indicate that Agency consideration was given to utilizing Mullen's Hughes relationship for a matter relating to a cover arrangement in [South America], and to garner information on Robert Maheu.<sup>7</sup>

Bennett's accessibility to the CIA has raised questions concerning possible Agency involvement in, or knowledge of, Bennett's activities in regard to Hunt/Liddy, to wit: Bennett suggested and coordinated the DeMott interview; regarding Chappaquiddick;<sup>8</sup> Bennett coordinated the release of Dita Beard's statement from Denver, after contacting Beard's attorneys at the suggestion of a Hughes executive;<sup>9</sup> Bennett suggested that Greenspan's safe contained information of interest to both Hughes and the CRP;<sup>10</sup> Bennett asked for and received from Hunt a price estimate for bugging Clifford Irving for Hughes;<sup>11</sup> Bennett coordinated the employment of political spy Tom Gregory by Hunt and discussed with Gregory the latter's refusal to proceed with bugging plans on or about June 16, 1972.<sup>12</sup> Bennett received a scrambler from Hughes personnel for use on Mullen telephones;<sup>13</sup> Bennett and Liddy set up dummy committees as a conduit for Hughes campaign contributions;<sup>14</sup> and Bennett served as the point of contact between Hunt and Liddy during the two weeks following the Watergate break-in.<sup>15</sup> Furthermore,

<sup>1</sup>Id.; Executive Session Testimony of Robert R. Mullen, *supra* note 1, at 9.

<sup>2</sup>Executive Session Testimony of (Former Deputy Director of Plans, hereinafter DDP), February 5, 1974, at 6-10; CIA Memorandum, undated, Subject: Wrap-Up of Agency's Association with Robert R. Mullen and Company, *supra* note 3, at 2.

<sup>3</sup>Executive Session Testimony of (Mullen and Company Case Officer), *supra* note 2, at 12.

<sup>4</sup>Executive Session Testimony of Robert F. Bennett, *supra* note 2, at 132.

<sup>5</sup>See [Mullen and Company Case Officer] Memorandum for Record, April 30, 1971, Subject: Association of Robert R. Mullen and Company with the Hughes Tool Company. This document is found at Tab 16, Supplemental CIA Material, Volume II.

<sup>6</sup>Executive Session Testimony of E. Howard Hunt, December 18, 1973, at 69-70; Executive Session Testimony of Robert F. Bennett, *supra*, note 2, at 62-65.

<sup>7</sup>Executive Session Testimony of Robert F. Bennett, *supra* note 2, at 93-94.

<sup>8</sup>Executive Session Testimony of E. Howard Hunt, *supra* note 19, at 8-8; But see Executive Session Testimony of Robert E. Bennett, *supra* note 2, at 79-84. Bennett indicates that Hunt suggested Bennett coordination with Hughes.

<sup>9</sup>Executive Session Testimony of E. Howard Hunt, *supra* note 10, at 72-73; Executive Session Testimony of Robert F. Bennett, *supra* note 2, at 121-124.

<sup>10</sup>Staff Interview of Thomas J. Gregory, September 1, 1973, at 5; Executive Session Testimony of E. Howard Hunt, *supra* note 10, at 17; Executive Session Testimony of Robert F. Bennett, *supra* note 2, at 69-75.

<sup>11</sup>Staff Interview of Linda Jones, September 6, 1973, at 3; Executive Session Testimony of Robert F. Bennett, *supra* note 2, at 140.

<sup>12</sup>Staff Interview of Linda Jones, *supra* note 15, at 9; See Summarized Highlights of Linda Jones Interview, dated September 10, 1973.

<sup>13</sup>Staff Interview of Linda Jones, *supra* note 15, at 8; Executive Session Testimony of Robert F. Bennett, *supra* note 2, at 153-157.

Robert Oliver, Mullen's Washington lobbyist for Hughes Tool, is the father of R. Spencer Oliver, Jr., whose telephone was tapped at the Democratic National Committee. Bennett met with the Oliver's after the break-in to discuss the bugging.<sup>16</sup>

The true nature of Bennett's relationship to the CIA was not known to us until late November of 1973 when, at Senator Baker's request, the CIA produced another volume of CIA documents (Volume IV). The following information was adduced from this volume.

On July 10, 1972, Bennett reported detailed knowledge of the Watergate incident to his CIA case officer. The case officer's report of this meeting was handwritten<sup>17</sup> and carried to Director Helms on or before July 14, 1972, in this form because of the sensitivity of the information.<sup>18</sup> It revealed that Bennett had established a "back door entry" to E. D. Williams, the attorney for the DNC, in order to "kill off" revelations of the Agency's relationship with the Mullen and Company in the course of the DNC lawsuit. He agreed to check with the CIA prior to contacting Williams.<sup>19</sup> Our staff has confirmed that Bennett did funnel information to Williams via attorney Hobart Taylor and that this information was more extensive than the information Bennett had previously provided the Grand Jury.<sup>20</sup> The CIA has acknowledged paying one-half of Bennett's attorney fee for his Grand Jury appearance.<sup>21</sup>

Although Bennett was supplying information to the CIA about many aspects of the Watergate incident and was at that time serving as liaison between Hunt and Liddy, there is no indication that these facts were disclosed to the FBI.

The aforementioned July 10 report contains mysterious reference to a "WH flap."<sup>22</sup> The report states that if the Mullen cover is terminated, the Watergate could not be used as an excuse.<sup>23</sup> It suggests that the Agency might have to level with Mullen about the "WH flap."<sup>24</sup> Nonetheless, a July 24, 1972 contact report shows that the CIA convinced Robert Mullen of the need to withdraw its Far East cover through an "agreed upon scenario" which included a falsified Watergate publicity crisis.<sup>25</sup> The Agency advises that the "WH flap" has reference to a (deletion at Agency request) that threatened to compromise Western Hemisphere opera-

<sup>16</sup>Executive Session Testimony of Robert F. Bennett, *supra* note 2, at 100-101.

<sup>17</sup>(Mullen and Company Case Officer) Memorandum for Record, July 10, 1972, Subject: Meeting with Robert Foster Bennett and his comments concerning E. Howard Hunt, Douglas Caddy, and the "Watergate Five" Incident (sic), found in CIA Supplemental Material, Volume IV.

<sup>18</sup>Executive Session Testimony of (Mullen and Company Case Officer), *supra* note 2, at 20-21, 28-29.

<sup>19</sup>(Mullen and Company Case Officer) Memorandum for Record, *supra* note 19, at 11-12.

<sup>20</sup>Robert F. Bennett, Memorandum for Record, dated January 18, 1973, at 17; Executive Session Testimony of Robert F. Bennett, *supra* note 2, at 129. See also Hobart Taylor Interview Report, dated February 11, 1974.

<sup>21</sup>CIA Memorandum, undated, Subject: Wrap-Up of Agency's Association with Robert R. Mullen and Company, *supra* note 3, at 5.

<sup>22</sup>(Mullen and Company Case Officer) Memorandum for Record, *supra* note 19, at 13-14.

<sup>23</sup>Id. at 12-13.

<sup>24</sup>Id. at 13.

<sup>25</sup>(Mullen and Company Case Officer) Memorandum for Record, July 24, 1972, Subject: Withdrawal (Far East) Cover, found in CIA Supplemental Material, Volume V, at

...has not explained sufficient reason to withhold such information from Mullen nor explained the significance of same to Watergate developments.

This Agency explanation is clouded by conflicting evidence. The Assistant Deputy Director of Plans has testified that he is very familiar with the matter and that it had no unique effect on Mullen's cover.<sup>20</sup> The Mullen case officer testified that the flap concerned cover.<sup>21</sup> Bennett, who thought the reference concerned a "White House flap," did advise of information received from the European cover that a (compromise) adversely affected a former Mullen cover (deleted at Agency request).<sup>22</sup>

A memorandum drafted by the Chief of the Central Cover Staff, CIA, on March 1, 1973, notes that Bennett felt he could handle the Ervin Committee if the Agency could handle Hunt.<sup>23</sup> Bennett even stated that he had a friend who had intervened with Ervin on the matter.<sup>24</sup> The same memorandum suggests that Bennett took relish in implicating Colson in Hunt's activities in the press while protecting the Agency at the same time.<sup>25</sup> It is further noted that Bennett was feeding stories to Bob Woodward who was "suitably grateful"; that he was making no attribution to Bennett; and that he was protecting Bennett and Mullen and Company.<sup>26</sup>

#### PENNINGTON MATTER

The results of our investigation clearly show that the CIA had in its possession, as early as June of 1972, information that one of their paid operatives, Lee R. Pennington, Jr., had entered the James McCord residence shortly after the Watergate break-in and destroyed documents which might show a link between McCord and the CIA. This information was not made available to this Committee or anyone else outside the CIA until February 22, 1974, when a memorandum by the then Director of Security was furnished to this Committee.<sup>1</sup>

The evidence further shows that in August of 1972, when the FBI made inquiry about a "Pennington," the Agency response was to furnish information about a former employee, (with a similar name), who was obviously not the man the FBI was interested in, and to withhold the name of Lee R. Pennington, Jr.<sup>2</sup>

The Pennington information was known within the CIA at least at a level as high as the Director of Security, according to the (former Chief of the Security Research Staff,

Research Staff), by whom Pennington was retained at \$250 per month until December of 1973.<sup>3</sup> In January of this year (Director of Security), ordered that the Pennington materials be removed from the CIA Watergate files when those files were about to be reviewed by the CIA's Inspector General's office in connection with the CIA furnishing this and other Congressional committees certain information on the taping capacity at the CIA.<sup>4</sup> Our information is that, since the revelation of the Pennington matter in February of this year, (Director of Security's) early retirement has been "accepted."<sup>5</sup>

It seems that the Pennington matter was extremely sensitive not only because of the above-mentioned facts, but because Pennington may have been a "domestic agent," possibly in violation of the CIA's charter.<sup>6</sup> The Agency has advised that the Security Research Staff was abolished in August of 1973.<sup>7</sup>

All of the above information was produced by the CIA only as a result of the position taken by a staff employee of the Personnel Security Division, [Personnel Security Office #]. Because of the Senator's and the staff's request for documentation and information relating to the destruction of CIA tapes and other matters, Deputy Legislative Counsel prepared a statement for Director Colby's signature on February 19, 1974. In it was the blanket assertion that the CIA had produced all Watergate-related information for this Committee as well as its Congressional oversight committees.<sup>8</sup> Because he was aware of many of the above facts, (Personnel Security Officer #1) made it clear that he could not and would not subscribe to such a statement.<sup>9</sup> (Personnel Security Of-

<sup>1</sup> Executive Session Testimony of (Chief, Security Research Staff) February 24, 1974, at 25-28; Executive Session Testimony of Lee R. Pennington, *supra* note 1, at 29. (Note: The Chief, Security Research Staff, was the recipient of certain of the McCord letters.)

<sup>2</sup> Executive Session Testimony of (Personnel Security Officer No. 1), *supra* note 2 at 48-49, 50-51, 52-54, 57-59, 69-72.

<sup>3</sup> The CIA, through its legislative liaison, has informed this Committee that (Director of Security) "retired" on or about February 26, 1974, shortly after his Executive Session Testimony before this Committee on February 25, 1974.

<sup>4</sup> See Executive Session Testimony of (Chief, Security Research Staff), *supra* note 3, at 25-26, 30; Executive Session Testimony of Lee R. Pennington, *supra* note 1, at 4-7, 10, 29. In this regard, Volume VIII CIA Supplemental Materials references an apparent CIA file on a United States citizen, Jack Anderson (#349691). This reference is contained in CIA memoranda in November and December of 1972 which discuss Pennington's providing his CIA case officer with a memorandum allegedly written by McCord about Jack Anderson and others. It should be noted that the CIA file on Mr. Pennington was not provided to this Committee and also apparently has portions "missing" from it, see Action Required section of this memorandum, *infra*, at Miscellaneous, No. 9.

<sup>5</sup> Executive Session Testimony of (Director of Security), February 25, 1974, at 17-18.

<sup>6</sup> Supplemental CIA Materials, Volume VIII; see also Executive Session Testimony of (Personnel Security Officer #1), *supra* note 2, at 61-63.

<sup>7</sup> Executive Session Testimony of (Personnel Security Officer #1), *supra* note 2, at 45-52. In his Executive Session Testimony, (Personnel Security Officer #1) states that, at a meeting on January 22, 1974, to discuss whether the "Pennington matter" should be withheld from or disclosed to the appropriate authorities and Congressional committees, he informed his supervisory CIA personnel that (tr. 62):

(tr. #1) was so concerned that documentary evidence of the Pennington information would be destroyed by others in the CIA that he and a co-employee copied the relevant memoranda and placed them in their respective personal safes.<sup>10</sup> This matter was subsequently brought to the Inspector General's attention and the (Director of Security's) memorandum of February 22 was drafted and made available to this Committee, the oversight committees, and the special Prosecutor's office.<sup>11</sup>

Our investigation in this area also produced the fact that, contrary to previous CIA assertions, the CIA conducted a vigorous in-house investigation of the Watergate matter, starting almost immediately after the break-in.<sup>12</sup> As one member of the Security Research Staff stated they were in a state of "panic."<sup>13</sup> In November and December of 1972, (Executive Officer to Director of Security) was specially assigned to then Executive Director/Comptroller Colby to conduct a very secretive investigation of several Watergate-related matters. (Executive Officer to Director of Security) was instructed to keep no copies of his findings and to make no records. He did his own typing and utilized no secretaries.<sup>14</sup>

Less clear than the aforementioned efforts to suppress the Pennington information, is an understanding of Pennington's actual role or non-role in the destruction of documents at the McCord home shortly after the Watergate break-in. Pennington has testified that he did not go to the McCord home for the purpose of searching for or destroying CIA-related documents, but does acknowledge witnessing the destruction of documents by Mrs. McCord and others.<sup>15</sup> It is clear from the testimony of others<sup>16</sup> that the CIA received information, evidently from Pennington, indicating more active participation by operative Pennington.

#### TAPES

In a meeting in Senator Baker's office with Director Colby and George Murphy, following a discussion of the Cushman tape, Murphy asked Colby if there were other tapes, and he replied in the affirmative. In response to a question from Senator Baker,

"Up to this time we have never removed, tampered with, obliterated, destroyed, or done anything to any Watergate documents, and we can't be caught in that kind of blind now. We will not do it." (Personnel Security Officer #1) added that he "didn't cross the Potomac on (his) way to work in the morning, and that the Agency could do without its own L. Patrick Gray" (tr. 53). Subsequently, (Personnel Security Officer #1) prevailed and the information was made available to this and other appropriate Congressional Committees.

<sup>10</sup> Executive Session Testimony of (Personnel Security Officer #1), *supra* note 2, at 49, 45-52.

<sup>11</sup> See "Memorandum for Director of Central Intelligence," *supra*, note 1.

<sup>12</sup> Executive Session Testimony of (Personnel Security Officer No. 1), *supra* note 2, at 1-4; Executive Session Testimony of (Security Research Staff Officer), February 25, 1974, at 5, 31-32, 42, 49.

<sup>13</sup> Executive Session Testimony of (Security Research Staff Officer), *supra* note 12, at 5.

<sup>14</sup> Executive Session Testimony of (Executive Officer to Director of Security), March 3, 1974 (transcription not presently available).

<sup>15</sup> Executive Session Testimony of Lee R. Pennington, *supra* note 1.

<sup>16</sup> Executive Session Testimony of (Security Research Staff Officer), *supra* note 12;

Executive Session Testimony of (Personnel Security Officer 1), *supra* note 2.

Executive Session Testimony of (Chief, Security Research Staff), *supra* note 3.

<sup>1</sup> Executive Session Testimony of (DDP), *supra* note 6, at 39; Executive Session Testimony of (Mullen and Company Case Officer), *supra* note 2, at 43.

<sup>2</sup> Executive Session Testimony of (Former Assistant Deputy Director of Plans), February 28, 1974, transcript not presently available.

<sup>3</sup> Executive Session Testimony of (Mullen and Company Case Officer), *supra* note 2, at 43.

<sup>4</sup> Executive Session Testimony of Robert F. Bennett, *supra* note 2, at 17-24.

<sup>5</sup> ( ) Memorandum for Deputy Director for Plans, March 1, 1973, Subject: Current Time Magazine Investigation of Robert R. Mullen & Company Connection with the Watergate Incident, found in CIA Supplemental Material, Volume IV, at 4.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> See "Memorandum for Director of Intelligence," February 22, 1974, Exhibit 1 to the Executive Session Testimony of Lee R. Pennington, February 23, 1974.

<sup>10</sup> Executive Session Testimony of (Personnel Security Officer No. 1), February 25, 1974, at 11-14, 15, 17-18; Executive Session Testimony of (Assistant Deputy Director of Personnel Security), March 2, 1974 (transcription not presently available.)

Colby further acknowledged the prior existence of central taping capability at the CIA. Senator Baker then requested that relevant tapes be reviewed and delivered to the Committee, to which Colby agreed. Shortly thereafter, Colby confirmed to Senator Baker recent press accounts that the tapes had been destroyed. In that same connection it should be pointed out that the staff had previously interviewed Victor Marchetti, who stated upon questioning that he suspected that there was a central taping system at the CIA. When the staff broached this subject with the Agency's (Deputy Legislative Counsel) he stated that if there had been such a system, it was no longer in existence.

Shortly before Director Helms left office, and approximately one week after Senator Mansfield's letter requesting that evidentiary materials be retained,<sup>1</sup> Helms ordered that the tapes be destroyed.<sup>2</sup> Although the CIA is apparently unable to state with any degree of precision the date on which the tapes were actually destroyed, testimony indicates that it was during the week of January 23, 1973.<sup>3</sup> While the CIA claims that the destruction was not unusual and was one of several periodic destructions, two facts seem clear. First, the only other destruction for which the CIA has any record was on January 21, 1972, when tapes for 1964 and 1965 were destroyed (there are no records of periodic destruction);<sup>4</sup> and secondly, never before had there been a destruction of all existing tapes.<sup>5</sup> It should be noted that there exists a separate taping system for the Office of Security.<sup>6</sup> That system is still operative, and the O/S tapes presumably are still in existence. The Agency has advised that it has reviewed all Office of Security tapes, watch office tapes, and duty office tapes to determine the relevancy of same but has not provided these tapes to the Select Committee, despite the Committee's request. The Agency has provided the Committee with two selected transcripts which purport to constitute, in the opinion of the Agency, the only Watergate related material contained on any tapes.

The January, 1973, destruction pertained only to recordings of room conversations. However, on Helms' instruction, his secretary destroyed his transcriptions of both telephone and room conversations.<sup>7</sup> The evidence

indicates that among those telephone transcriptions were conversations with the President, Haldeman, Ehrlichman, and other White House officials.<sup>8</sup> Helms and (Director Helms' Secretary) have testified that such conversations were non-Watergate related.<sup>9</sup> Unfortunately, any means of corroboration is no longer available. We have examined summaries of logs made available by the CIA, but it is impossible to determine who was taped in many of the room conversations. In this regard, even the CIA's analysis does not provide this vital information. There are several references to a "Mr. X." The CIA has not produced the actual logs for our examinations. However, we were informed that there are "gaps" in the logs.

The circumstances surrounding the transcriptions of room and telephone conversations of former Deputy Director Cushman are bizarre to say the least. When Cushman testified before the Watergate Committee on August 2, 1973, he presented a transcription of the Cushman/Hunt conversation of July 22, 1971.<sup>10</sup> We recently discovered that there exists an original, more complete transcription; that the original transcription contained an insignificant but uncomplimentary reference to the President; and, that the original was available to the CIA at the time of the Committee's hearings in August of 1973. In fact, the original transcript was not produced until February of this year, the day before Senator Baker was to listen to the Cushman/Hunt tape, per his request.

The Cushman/Hunt conversation and one other were the only two room transcriptions saved by Cushman's secretary, (presently Director Colby's Secretary, hereinafter referred to as Cushman/Colby's Secretary), and his assistant (Executive Assistant to Deputy Director of CIA, hereinafter referred to as Exec. Asst. to DDCI), when Cushman's safe was cleaned out in December of 1971.<sup>11</sup> They claimed that they made a search for the original transcription shortly after the Watergate break-in but that it was not found, and therefore an abbreviated transcription was typed.<sup>12</sup> Therefore, we have a search by (Exec. Asst. to DDCI) shortly after the Watergate break-in in June of 1972 and another search in May of 1973, the original transcript not having been found until May of 1973.

In February of this year (Deputy Legislative Counsel) hand-delivered to Senator Baker a very significant document. It was the transcription of a portion of the Ehrlichman/Cushman telephone conversation. (Deputy Legislative Counsel) stated it had been recently discovered by (Exec. Asst. to DDCI).<sup>13</sup> It was discovered during (Exec. Asst. to DDCI's) third search for Watergate-related materials, and it was located in the same file as the Cushman/Hunt transcript.<sup>14</sup>

The document is especially significant in that it quotes Ehrlichman as saying that Hunt was working for the President and that the CIA was to give Hunt "carte blanche." This, of course, substantiates the CIA's claim that Ehrlichman made the orig-

inal call with regard to the CIA's assistance to Hunt. Surprisingly, we learned that (Cushman/Colby Secretary), although she says she was told that Mr. Cushman did not have his calls monitored, did, in fact, monitor certain of his calls anyway, especially with people at the White House, without Cushman's knowledge.<sup>15</sup> The Cushman/Ehrlichman transcript was a result of the shorthand notes she took of a monitored call.<sup>16</sup>

There are two interesting aspects to this transcription. First, only the Ehrlichman portion of the conversation was transcribed, contrary to normal practice;<sup>17</sup> and secondly, Cushman does not recall any reference to the President or to "carte blanche."<sup>18</sup>

#### HUNT-TSD SUPPORT-ELLSBERG PROFILE

The Committee has received much testimony over the past several months detailing the extensive support of Howard Hunt by CIA personnel with CIA materials and the CIA's role in the preparation of the psychological profiles of Daniel Ellsberg. Howard Hunt was involved in a wide variety of domestic undertakings with the use of CIA equipment and the assistance of CIA personnel, e.g., the burglaries of Dr. Fielding's office and the DNC, the preparation of psychological profiles on Daniel Ellsberg and the investigation of the Chappaquiddick incident. In light of the facts and circumstances developed through the documents and conflicting testimony of CIA personnel adduced by this Committee, which are summarized below, the question arises as to whether the CIA had advance knowledge of the Fielding break-in. The Fielding burglary was not made public until May of 1973.

While the CIA has previously belatedly acknowledged some of the technical support it provided to Hunt and Liddy prior to the Fielding break-in, the CIA has continually downplayed the extent of that technical support as well as the specific approval and detailed knowledge of such support by high level CIA officials.<sup>19</sup> The scenario of events culminating in the Fielding break-in caused a wealth of conflicting testimony among CIA officials as referred to hereinafter.

The CIA's assistance to Hunt began on July 22, 1971, when Hunt met with General Cushman, then Deputy Director of the CIA, in Cushman's office to request physical disguise and phony identification to effect a "one time operation, and out."<sup>20</sup> This meeting was tape recorded by Cushman. Thereafter, pursuant to the specific approval of both Cushman and then Director of the CIA Richard Helms, a member of the CIA's Technical Services Division was assigned to provide Hunt with the assistance and materials he requested.<sup>21</sup> During the next thirty days, the CIA technical staff met with Hunt on four separate occasions. Most meetings were held at CIA "safe houses" (dwellings owned

<sup>15</sup> Executive Session Testimony of (Cushman/Colby Secretary), *supra* note 11 at 12-13.

<sup>16</sup> *Id.* at 17, 18.

<sup>17</sup> *Id.* at 80-81.

<sup>18</sup> Executive Session Testimony of General Robert E. Cushman, March 7, 1974 (transcription not yet available).

<sup>19</sup> See affidavits of Cushman (Exec. Asst. of DDCI), and (Deputy Chief, TSD), Original CIA Materials, Volume II, Tab D.

<sup>20</sup> Partial tape transcript of July 22 meeting. Original CIA Materials, Volume II, Tab K, at 1; see also Cushman's affidavit, *id.*, and complete unabridged tape transcript of July 22 meeting, CIA Supplemental Materials, Volume II, Tab 4.

<sup>21</sup> See Executive Session Testimony of General Robert E. Cushman, March 7, 1974, at 10, 12; *contra*, Executive Session Testimony of Richard Helms, March 8, 1974, and Testimony of Richard Helms before the Senate Committee on Appropriations, May 18, 1973, at 195-196.

<sup>1</sup> Letter from Senator Mansfield to DCI Helms, dated January 18, 1973.

<sup>2</sup> Executive Session Testimony of (Director Helms' Secretary), February 6, 1974, at 14. See also CIA memorandum for Director of Security, dated January 31, 1974, at 3. She states that she told the technicians to destroy only Helms' tapes and not all of the tapes (Executive Session Testimony at 34-35). However, there seems to have been no doubt in the minds of the technicians that they were to destroy all of the tapes on hand. Executive Session Testimony of (Office of Security Technician #1), February 6, 1974, at 23, Executive Session Testimony of (Office of Security Technician #2), February 6, 1974, at 53.

<sup>3</sup> Executive Session Testimony of (Office of Security Technician #2), *supra* note 2, at 35. See also CIA memorandum for Director of Security, *supra* note 2.

<sup>4</sup> Executive Session Testimony of (Office of Security Technician #1), *supra* note 2 at 10. Executive Session Testimony of (Office of Security Technician #2), *supra* note 2 at 36-37.

<sup>5</sup> Executive Session Testimony of (Office of Security Technician #2), *supra* note 2 at 20.

<sup>6</sup> CIA memorandum for Director of Security, *supra* note 2 at 4.

<sup>7</sup> Executive Session Testimony of (Director Helms' Secretary, *supra* note 2 at 14, 17, 19; Executive Session Testimony of Richard Helms, March 8, 1974 (transcription not yet available).

<sup>8</sup> Executive Session Testimony of (Director Helms' Secretary), *supra* note 2 at 22.

<sup>9</sup> Executive Session Testimony of Helms, *supra* note 7; Executive Session Testimony of (Director Helms' Secretary), *supra* note 2 at 23.

<sup>10</sup> Public Testimony of General Robert E. Cushman at 3291.

<sup>11</sup> Executive Session Testimony of (Cushman/Colby Secretary), February 21, 1974.

<sup>12</sup> *Id.* at 64; see also memorandum of (Exec. Asst. to DDCI), July 23, 1973, Supplemental CIA Materials, Volume IV.

<sup>13</sup> See Ehrlichman/Cushman tape transcription, CIA memorandum "For All Employees" dated January 31, 1974, at Tab B.

<sup>14</sup> Affidavit of (Exec. Asst. to DDCI), February 5, 1974, and Executive Session Testimony of (Exec. Asst. to DDCI), March 6, 1974 (transcription not yet available).

or leased to the CIA for clandestine meetings).<sup>1</sup> At these meetings Hunt was provided with the CIA equipment and assistance described in earlier Committee testimony, i.e., a wig, voice alteration devices, heel lift to cause a limp,<sup>2</sup> fake glasses, phony driver's licenses and identification cards, a Uher 5000 tape recorder disguised in a typewriter case, a camera hidden in a tobacco pouch, preliminary steps toward a phony New York telephone answering device, and the developing of the film of Hunt and Liddy's reconnaissance trip to Los Angeles to "case" Dr. Fielding's office.<sup>3</sup> This assistance was abruptly terminated on August 27, 1971—one week before the Fielding burglary of September 3, 1971.<sup>4</sup>

Recent testimony and documents have developed several matters of considerable import with regard to the assistance provided Hunt and Liddy. The technician who dealt with Hunt has testified that he received approval for each and every request of Hunt from his supervisory officials at the CIA.<sup>5</sup> He also testified that, contrary to earlier and other CIA testimony, Hunt informed him early in August that he would be introducing a second man (Liddy) to the technician for the provision of disguise and false identification.<sup>6</sup> CIA officials heretofore had claimed that Hunt introduced Liddy unannounced late in August and that this introduction had been one of the leading causes for the CIA's ultimate termination of its support for Hunt.<sup>7</sup>

Testimony and documents have also revealed, again contrary to the testimony of high CIA officials, that Hunt's request for a New York "backstopped" telephone (a telephone with a New York number which would in reality be answered by a Washington CIA switchboard) answering service was well on its way to completion.<sup>8</sup> A detailed memorandum of the TSD technician, dated August 27, 1971, reveals that the backstopped telephone request was about to be implemented.<sup>9</sup> This memorandum includes the actual relay number to be called. Previous CIA testimony had always been to the effect that this telephone request was so unreasonable that it was immediately disapproved

and that it was also a leading cause of the ultimate termination of Hunt's support.<sup>10</sup>

Recent testimony also established that the CIA created a file on Hunt's activities entitled the "Mr. Edward" file. This file was maintained outside the normal CIA filing system, and this Committee's requests to obtain this file have not been granted, despite the fact that testimony has established that this file was turned over to Director Colby after the Watergate break-in.<sup>11</sup> Moreover, recent testimony also indicates that a "bigot list" (CIA term for treatment of especially sensitive case restricting access to a limited number of persons) was created for Hunt's activities.<sup>12</sup>

Testimony has indicated that the film developed for Hunt and Liddy was, in fact, of Dr. Fielding's office.<sup>13</sup> Not only was the film developed, however, but it was reviewed by CIA supervisory officials before it was returned to Hunt.<sup>14</sup> One CIA official who reviewed the film admitted that he found the photographs "intriguing" and recognized them to be of "southern California."<sup>15</sup> He then ordered one of the photographs to be blown up. The blow-up revealed Dr. Fielding's name in the parking lot next to his office.<sup>16</sup> Another CIA official has testified that he speculated that they were "casing" photographs.<sup>17</sup> Recent testimony has shown that the CIA official who reviewed these photographs immediately reported their content to Cushman and his assistant in the office of the Deputy Director of the CIA.<sup>18</sup> With a degree of incredulity, however, he denies telling his superiors that he blew up one of the photographs and that it revealed the name of Dr. Fielding.<sup>19</sup> Moreover, both Cushman and his

assistant denied ever having been told about the content of the photographs by (Deputy Chief, TSD) or anyone else.<sup>20</sup> In any event, recent testimony shows that it was only after these photographs were developed and examined that the CIA technician dealing with Hunt was ordered to cut off all support for Hunt.<sup>21</sup> This decision was made by the Deputy Director of the CIA (Cushman) and/or the Director of the CIA (Helms).<sup>22</sup>

Finally, while previous public CIA testimony claimed that the CIA "had no contact whatsoever with Mr. Hunt subsequent to 31 August, 1971,"<sup>23</sup> recent testimony and secret documents indicate that Hunt had extensive contact with the CIA after that date. Not only did Hunt play a large role in the CIA's development of psychological profiles on Daniel Ellsberg (not completed until November of 1971), but he actually contacted the CIA's External Employment Assistance Branch (EEAB) and approached active CIA personnel regarding several operations, including, e.g., Hunt's requests to the CIA for person(s) skilled in lockpicking, electronic sweeping, and entry operations.<sup>24</sup>

It is significant that during the same period as the ongoing support of Hunt by the CIA, August of 1971, the CIA was also compiling a psychological profile on Daniel Ellsberg. Recent testimony has revealed that Hunt was deeply involved in that project as well.

<sup>1</sup> Executive Session Testimony of General Robert E. Cushman, March 7, 1974, at 22-23; Executive Session Testimony of (Exec. Asst. to DDCI), March 6, 1974 (transcription not presently available).

<sup>2</sup> Executive Session Testimony of (TSD Technician #1), *supra* note 4, at 59-60, and Exhibit 1 to that testimony.

<sup>3</sup> Executive Session Testimony of General Robert E. Cushman, March 7, 1974, at 21-22, 16-20; Executive Session Testimony of Richard Helms, March 8, 1974, *contra* (transcription not presently available).

<sup>4</sup> Lieutenant General Vernon A. Walters Memorandum for Record, July 28, 1972, Original CIA Materials, Volume I, Tab S.

<sup>5</sup> Contacts after August 31, 1974, indicated in the Secret Supplemental CIA Materials, include the following:

(a) Hunt was referred to (Former CIA employee) by (Chief, EEAB) of the CIA's EEAB, (Chief, EEAB) retired on June 9, 1972) when Hunt requested a "retired lockpicker" and entry man in the time period of March-May, 1972. CIA Supplemental Materials, Volume I, Tab 4, Memorandum of June 19, 1973.

(b) Hunt, in late 1971, requested some "security types" to check physical security and monitor telephones in Las Vegas, in connection with Hunt's work on the Hughes account with Mullen and Company. Hunt was referred by (Chief, EEAB) to an (Agency proprietary (name deleted at Agency request) (CIA Supplemental Materials, Volume I, Tab 4).

(c) Hunt contacted (deleted at Agency request) (an active CIA employee until November 10, 1972) sometime in late 1971 regarding a weekend entry operation.

(d) Hunt contacted CIA employee (deleted at Agency request) in October of 1971 concerning certain Indo-China War documents (Original CIA Materials, Volume II, Tab D).

(e) On December 8, 1971, Hunt requested and received a CIA computer name trace, by CIA employees, on a person who had allegedly formed the (deleted name of Latin American country at Agency request) National Independent Party in December of 1971 (Original CIA Materials, Volume II, Tab D).

(f) The CIA acknowledges that the Deputy Director of Plans of the CIA did meet with Hunt on October 15, 1971 to discuss Mullen and Company problems.

<sup>1</sup> See Executive Session Testimony of (TSD Technician #1), February 5 and 6, 1974, at 3-25 (February 5 tr.), and Exhibit 1 to that testimony (notes of (TSD Technician #1) compiled contemporaneously with the support of Hunt) also found in CIA Supplemental Materials, Volume VII, Tab 8.

<sup>2</sup> Staff interview with Howard Hunt, February 4, 1974.

<sup>3</sup> Public Testimony of Richard Helms and General Robert E. Cushman, August 2, 1973; affidavits of (TSD Technician #1, TSD Technician #2, Deputy Chief, TSD, and Exec. Asst. to DDCI), Original CIA Materials, Volume II, Tab D.

<sup>4</sup> *Id.*

<sup>5</sup> Executive Session Testimony of (TSD Technician #1), *supra* note 4 at 10 (February 6 tr.), at 57 (February 5 tr.).

<sup>6</sup> *Id.* at 55-57 (February 5 tr.); see also notes referred to in note 4, *supra*.

<sup>7</sup> Affidavits of (Exec. Asst. to DDCI), (Deputy Chief, TSD), Cushman, *supra* note 1; memoranda (of Exec. Asst. to DDCI) dated August 23, 26, and 30, Original CIA Materials, Volume II, Tab K; compare Executive Session Testimony of (TSD Technician #1), *supra* note 4 at 55-56 (February 5 tr.) with Executive Session Testimony of (Deputy Chief, TSD), February 5, 1974, at 24.

<sup>8</sup> Executive Session Testimony of (TSD Technician #1), *supra* note 4 at 8-10, 12 (February 6), and Exhibit 1 to (TSD Technician #1)'s testimony at 5, which details the steps taken by the CIA to implement Hunt's request.

<sup>9</sup> *Id.*

<sup>10</sup> See affidavits of (Exec. Asst. to DDCI), (Deputy Chief, TSD), Cushman, and memoranda of (Exec. Asst. to DDCI), *supra* note 10; Executive Session Testimony of Cushman, March 7, 1974, at 10-21. Moreover, Executive Session Testimony of Richard Helms, *supra* note 3, indicates that it was Hunt's request for a secretary which caused him to order the cut-off of support. This request, however, occurred on August 18 and was denied the same or next day, see Executive Session Testimony of (Exec. Asst. to DDCI), March 8, 1974 (transcription not presently available), *contra*, testimony of Richard Helms before the Senate Committee on Appropriations, *supra* note 3, at 197.

<sup>11</sup> Executive Session Testimony of (Deputy Chief, TSD), February 5, 1974, at 14-15; Executive Session Testimony of (Chief, TSD), February 5, 1974, at 29-30.

<sup>12</sup> Executive Session Testimony of (TSD Technician #1), *supra* note 4, at 2-4 (February 6 tr.).

<sup>13</sup> Executive Session Testimony of (Executive Officer to Director of Security), March 3, 1974 (transcription not presently available); Staff interview of Howard Hunt, *supra* note 5 (wherein Hunt indicates that the film the CIA developed included shots of a "close-up of (Fielding's) office door, a close-up of the directory of (Fielding's) building, photographs of the ingress and egress of the parking lot . . ." as well as shots of the inside of Fielding's office, including the top of Fielding's desk).

<sup>14</sup> Executive Session Testimony of (TSD Technician #1), *supra* note 4 at 20-24, 52-53 (February 5 tr.); Executive Session Testimony of (Deputy Chief, TSD), *supra* note 14 at 43-47.

<sup>15</sup> Executive Session Testimony of (Deputy Chief, TSD), *supra* note 14 at 44.

<sup>16</sup> *Id.* at 45-46.

<sup>17</sup> Executive Session Testimony of (Chief, TSD), February 5, 1974, at 19-20.

<sup>18</sup> Executive Session Testimony of (Deputy Chief, TSD), *supra* note 14 at 47-49.

<sup>19</sup> *Id.*



The preparation of this profile was specifically approved by then Director Helms in late July of 1971.<sup>2</sup> The actual compiling of the profile was done by the CIA's medical services staff and, in particular, its chief psychiatrist.<sup>3</sup> Testimony has indicated that a meeting was held on August 12, 1971, in which both Howard Hunt and Gordon Liddy participated. They told the CIA psychiatrist that Ellsberg had been undergoing psychiatric analysis. Hunt and Liddy discussed with him their desire to "try Ellsberg in public," render him "the object of pity as a broken man," and be able to refer to Ellsberg's "Oedipal complex."<sup>4</sup> At the close of the meeting, Hunt asked the psychiatrist not to reveal his presence in the profile discussions to anyone at the CIA, stating that he already had been in contact with General Cushman and was on good terms with Director Helms. The psychiatrist has testified recently that he was extremely concerned about Hunt's presence and remarks. He so reported this to his CIA superiors, both in memoranda and in a meeting on August 20, 1971. Access to the memoranda of both the psychiatrist and his superiors has been refused to this Committee.<sup>5</sup>

The CIA psychiatrist also was given the name of Dr. Fielding as Ellsberg's psychiatrist and numerous FBI reports of interviews with Ellsberg's associates, as well as a memorandum of a reported telephone conversation between Ellsberg and another party.<sup>6</sup> and recent testimony has revealed that it was reported back to the psychiatrist that Director Helms was advised of his concerns regarding Hunt's participation and comments.<sup>7</sup> While Director Helms has denied that he was ever told that Hunt was involved in the CIA's Ellsberg profile project,<sup>8</sup> it is not without significance that the time period during which the CIA psychiatrist was briefing his superiors of his concerns regarding Hunt was circa August 20, 1971—a week prior to the developing of Hunt's film of "intriguing" photographs of medical offices in southern California which impressed at least one CIA official as "casing" photographs.<sup>9</sup>

With the aforementioned background, we are reminded that when the second profile on Ellsberg was completed (completion was delayed until November of 1971), Director Helms took pains to inform the White House that:

"I do wish to underline the point that our involvement in this matter should not be revealed in any context, formal or informal" (emphasis added).<sup>10</sup>

In his recent testimony before this Committee, Director Helms stated that the above quoted language represented his concern only for the professional reputations of the CIA psychiatrists and not any concern over

<sup>2</sup> Affidavit of (Deputy Director of Support, hereafter referred to as the DDS) and (Director of Medical Services Staff, hereinafter referred to as the DMSS) and (Chief of Psychiatric Staff on Medical Services Staff, hereinafter referred to as Chief Psychiatrist), Original CIA Materials, Volume I, Tab U; Volume II, Tab D.

<sup>3</sup> Id.

<sup>4</sup> Executive Session Testimony of (Chief Psychiatrist), March 6, 1974 (transcription not presently available).

<sup>5</sup> Id., see also Colby letter refusing access, *infra*.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Executive Session Testimony of Richard Helms, *supra* note 3; Testimony of Richard Helms before the Senate Armed Services Committee, May 17, 1973, at 17.

<sup>9</sup> See Executive Session Testimony of (Chief, TSD), *supra* note 20.

<sup>10</sup> Memorandum from Richard Helms to David Young, November 9, 1971, Original CIA Materials, Volume II, Tab J.

the possible illegality of the profile.<sup>11</sup> It should be noted, however, that in a memorandum from the psychiatrists' CIA supervisor to Helms in November of 1971, which accompanied the completed profile, their concern is expressed as follows:

"(DMSS) and (Chief Psychiatrist) . . . confirmed that their worries did not . . . involve professional ethics or credibility. Instead, they are concerned lest the Agency's involvement . . . become known and particularly that it might come to light during any proceeding. . . . We will be guided by your determination after you have had an opportunity to read the new paper." (Emphasis supplied.)<sup>12</sup>

The facts and circumstances related above, as derived from the recently curtailed investigation of this Committee, would appear to raise many unanswered questions as to the involvement of the CIA in matters outside its legislative parameters.

#### HUNT—MARTINEZ—CIA

Director Helms, upon being questioned about Martinez, has consistently testified to little more than the fact that Eugenio Martinez was on a \$100 per month retainer with the CIA as an informant on Cubans of interest to the Agency.<sup>13</sup> Our investigation has revealed relevant information concerning Martinez' CIA relationship, as set out below, not previously brought forward in testimony by CIA officials.

Because of Hunt's close relationship with Martinez at a time when Martinez was a paid CIA operative, the basic question arises as to whether the CIA was aware of Hunt's activities early in 1972 when he was recruiting Cubans to assist in the Watergate break-in.

Prior to assuming a retainer status in the summer of 1971, Martinez had been a full-salaried operative involved in Agency [deleted at Agency request] endeavors.<sup>14</sup> In November of 1971, a month after his participation in the Fielding break-in, Martinez mentioned his contact with Hunt in an allegedly innocuous fashion to his case officer and the Miami Chief of Station.<sup>15</sup> There is also evidence that Martinez had mentioned Hunt even earlier to his case officer.<sup>16</sup> In March of 1972, Martinez advised the Miami Chief of Station that Hunt was employed by the White House and asked the Chief of Station if he was sure that he had been apprised of all Agency activities in the Miami area.<sup>17</sup> This concerned the Chief of Station who sent a letter to CIA headquarters requesting information on Hunt's White House status.<sup>18</sup> On

<sup>11</sup> Executive Session Testimony of Richard Helms, *supra* note 3.

<sup>12</sup> Memorandum from (DDS), CIA Deputy Director of Support, to Richard Helms, Director of Central Intelligence, November 9, 1971, Original CIA Materials, Volume II, Tab J.

<sup>13</sup> Senate Foreign Relations Committee Report of Richard Helms Testimony, February 7, 1973, at 24, 50; Senate Select Committee Transcript of Richard Helms Testimony, August 2, 1973, at 6733-6734, 6814-6815.

<sup>14</sup> Executive Session Testimony of (Miami Chief of Station, hereinafter COS), February 7, 1974, at 5-9.

<sup>15</sup> (Martinez' Case Officer (1971-1972), hereinafter referred to as Case Officer #1) Memorandum for the Record (excerpt), November 19, 1971, Agent (Martinez' Code Name), found at Tab 1, CIA Supplemental Materials, Volume II; Executive Session Testimony of (COS) *supra* note 2, at 14-18.

<sup>16</sup> (Case Officer #1) Memorandum for the Record (excerpt), *supra* note 3; Executive Session Testimony of (COS), *supra* note 2, at 13.

<sup>17</sup> Executive Sessions Testimony of (COS), *supra* note 2, at 23-27.

<sup>18</sup> Id., at 25-27; See (COS) Memorandum for Chief, (deleted at Agency request), March 17, 1972, Subject: Miscellaneous In-

March 27, 1972, the Chief of Station received a cryptic response at the direction of the Assistant Deputy Director of Plans advising the Chief of Station not to concern himself with the travels of Hunt in Miami, that Hunt was on domestic White House business of an unknown nature and that the Chief of Station should "cool it."<sup>19</sup> (It should be remembered that this was after the Agency provided Hunt with TSD support in July and August of 1971. It is not explained why Hunt, who had "used" the CIA, was not of more interest to the Agency, especially when he was contacting a current operative, Martinez.) The tone of this letter infuriated the Chief of Station and left him uneasy about the matter.<sup>20</sup> Accordingly, the Chief of Station requested that Martinez prepare in Spanish a report on the Hunt information provided the Chief of Station in March.<sup>21</sup> Martinez compiled a "cover story"<sup>22</sup> on April 5, 1972, after being told by his case officer not to put anything in the report which might come back to haunt him.<sup>23</sup> The Spanish report, which did not contain any of the alarming innuendos suggested earlier by Martinez, was maintained in the Chief of Station's file until after the Watergate break-in.<sup>24</sup>

It is known that Martinez had two case officers during 1971 and 1972. There is conflicting evidence concerning the precise date of the spring, 1972 case officer change-over.<sup>25</sup> It is known that Martinez met with his last case officer on June 6, 1972, and at that time had at least two reporting requirements: maritime operation information and information pertaining to possible demonstrations at the Miami conventions,<sup>26</sup> contrary to earlier testimony by CIA officials.<sup>27</sup> The Agency has not afforded this Committee an unabridged examination of the case officer contact reports, despite requests for same.

The Agency has advised that Martinez' first case officer was on an "African safari" throughout June of 1972.<sup>28</sup> The second case

information from (Martinez' Code Name), found at Tab 1, CIA Supplemental Materials, Volume II; (COS) (sensitive) letter, March 17, 1972, found at Tab 1, CIA Supplemental Materials, Volume II.

<sup>19</sup> Executive Session Testimony of (COS), *supra* note 2, at 31-34; (Chief, Cuban Operations Branch, Western Hemisphere Division, hereinafter referred to as Chief, COB) letter to (COS), March 27, 1972, found at Tab 1, CIA Supplemental Materials, Volume II.

<sup>20</sup> Executive Session Testimony of (COS), *supra* note 2, at 32, 80.

<sup>21</sup> Id., at 33-34, 38-40; (Case Officer #1) Cable (deleted at Agency request), December 15, 1973, found at Tab 2, CIA Supplemental Materials, Volume II; Executive Session Testimony of Eugenio Martinez, December 10, 1973, at 45-47.

<sup>22</sup> Executive Session Testimony of (COS), *supra* note 2, at 91; see Executive Session Testimony of Eugenio Martinez, *supra* note 9, at 11.

<sup>23</sup> Executive Session Testimony of Eugenio Martinez, *supra* note 9, at 53, 58-59. (Case Officer #1) Cable (deleted at Agency request), *supra* note 9.

<sup>24</sup> Executive Session Testimony of (COS), Spanish Report and Translated Spanish Report, found at Tab 1, CIA Supplemental Materials, Volume I (attention to discrepancies).

<sup>25</sup> Tab 2, CIA Supplemental Materials, Volume VII (indicating April 14, 1972 change-over); Tab 10, Original CIA Materials, Volume III (indicating a March, 1972 change-over); Executive Session Testimony of (COS), *supra* note 2, at 36 (indicating April 23-30, 1972 change-over).

<sup>26</sup> Executive Session Testimony of (Case Officer #2), February 4, 1974, at 25-26, 41-42.

<sup>27</sup> *Supra* note 1.

<sup>28</sup> CIA Deputy Legislative Counsel showed this staff a printed itinerary for the first case officer which contained the referenced entry.

June 1972 to June 22, 1972. This information has been requested but it is available to the Senate Armed Services Committee only. Such information is critical to any determination as to the chronology of Watergate notification and related actions.

3. Access to the five inch reel of tape labeled, "McCord Incident/18-19 June 1972," which was found in the Office of Security on March 1, 1974. It is not known what is contained in this tape, but its importance is obvious.

#### Miscellaneous

1. Access to the special Watergate file formerly maintained in the Office of Security. This file was requested as early as mid-January, 1974, and its existence at that time was denied by legislative liaison. Sworn testimony has since confirmed existence of such a file, now under control of the Inspector General.

2. Any and all CIA files relating to the activities of E. Howard Hunt. This was requested in January of 1974 and was ignored by the Agency. We are aware of at least an executive registry file in which information on Hunt was placed in 1971 and suggest that this would be a good starting point for compliance with this request.

3. Any and all CIA files relating to G. Gordon Liddy during the time frame of January, 1970, to the present. When this request was made in January of 1974, the staff was advised that CIA information on Liddy was limited to sensitive briefings, the subject matter of which was beyond the purview of this Committee.<sup>3</sup> Files relative to these briefings need to be examined, particularly in light of the time period of same, i.e., August and September, 1971.

4. Any and all CIA files pertaining to attorney (name deleted at Agency request) and/or his law firm from the period January 1971 to the present. While the CIA has confirmed that (attorney) is a former case officer and that (potentially significant information deleted at agency request) during the period of time that (attorney) served as counsel for the Committee to Re-Elect the President,<sup>4</sup> contact reports and memoranda must be reviewed in raw form before a determination can be made as to the impact of the aforementioned facts.

5. Office calendars for Director Helms, General Cushman, and the Deputy Director of Plans for the time frame from January of 1971 through June of 1973. These calendars have been previously requested and are critical to a thorough investigative analysis of knowledge available to these respective officials at the critical times. These calendars have not been made available to this staff for review.

6. All record pertaining to Agency financing of Egil Krogh's activities, as evidenced by sworn testimony before this Committee. Also, interviews of superiors of (Secretary to Chief, CIA Narcotics Control Group).<sup>5</sup>

7. Interviews of (Chief, EEAB), (former outplacement director), (Agency employee), (Agency employee), (former Agency employee), (former Agency employee) and attorney (former Agency employee), all of whom were either in the employ or were former employees of the Agency at the time they discussed Hunt operation activities (including entry operations) during 1971 and 1972.

<sup>3</sup> See CIA's response to this inquiry regarding Liddy, Supplemental Materials, Volume II, Tab 13.

<sup>4</sup> See CIA's response to this inquiry regarding (attorney), CIA Supplemental Materials, Volume II, Tab 14; IV (CIA Memorandum, June 28, 1973).

<sup>5</sup> See Executive Session Testimony of (Secretary to Chief, CIA Narcotics Control Group), March 2, 1974, (transcription not presently available).

8. A review of all CIA activities (regardless of nature or degree of support) in Mexico during the calendar year, 1971-1972. This information, which is relevant to an objective assessment of CIA's post-Watergate posture and pre-Watergate potential involvement, has been requested (to an extent consistent with national security) since February 1, 1974.<sup>6</sup>

9. The "Pennington File," which was previously requested and made available only to the House Armed Services Oversight Committee. This file contains memoranda and other documents dealing with the activities of the CIA operative, Pennington, who was alleged to have participated in the burning of documents in the McCord home after the Watergate break-in. This file also contains data regarding the "domestic activities" of Pennington, and the CIA has made it known that there are "gaps" in this file during certain relevant time periods.

10. At the conclusion of his Executive Session on Friday, March 8, 1974, Ambassador Helms testified concerning an individual in a peculiar position to know the activities of both the Agency and the FBI. While Helms knew of no Watergate information in this individual's possession, other evidence suggests the contrary. Consideration should be given to interviewing this individual who has already commenced preparation of a Watergate-related memorandum in response to a previous request by the staff.<sup>7</sup>

11. Michael Mastrovito of the Secret Service should be interviewed concerning his Agency communications on June 17, 1972. Agency documents indicate that Mastrovito agreed to downplay McCord's Agency employment; that Mastrovito was being pressured for information by a Democratic state chairman; and that Mastrovito was advised by the CIA that the Agency was concerned with McCord's emotional stability prior to his retirement.<sup>8</sup>

The PRESIDING OFFICER. Under the previous order, the Senator from Connecticut (Mr. WEICKER) is recognized for not to exceed 5 minutes.

Mr. WEICKER. Mr. President, I rise in support of the legislation submitted by the distinguished Senator from Tennessee (Mr. BAKER).

As I have said on other occasions, the job which was started a little over a year ago by the Senate Select Committee will only be considered a job well done if we take the facts learned and construct legislation around those facts—more particularly, if we construct legislation to see to it that the abuses uncovered will never occur again. Unless we do that, it can be said, with basis in fact, that the only purpose of the committee was to indulge in acts of sensationalism rather than in acts of legislation.

Insofar as the abuse of the Constitution and the laws of this country by the law enforcement intelligence community, it cannot be said that Watergate was a bad dream. It was a fact. The bill introduced by the distinguished Senator from Tennessee and the Senator from Michigan (Mr. HART), the Senator

<sup>6</sup> The CIA, through its legislative liaison, has confirmed that Mexico is an "important country" to the CIA, but has refused to provide any other information regarding CIA Mexican activities during the 1971-72 time period.

<sup>7</sup> See CIA Supplemental Material, Volume II, Tab 18.

<sup>8</sup> See CIA cable traffic shortly after the Watergate break-in, CIA Supplemental Material, Volume VI.

from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), and myself is intended to prevent a reoccurrence not of a dream but of a fact.

Indeed, for many years the American intelligence community has ignored Congress; or, to put it the other way around, Congress has ignored the American intelligence community. The abuses uncovered cannot be considered illogical. Rather, they are the logical ending to a practice of total unaccountability.

In the preparation of my remarks for delivery this morning, one of the members of my staff had written, "While the intelligence activities of Federal agencies have been within the law and in the national interest," I turned to him and said, "I can't say that. I don't know that they have been."

That is the problem. It is not a problem that can be resolved solely by the President of the United States. It is as much our responsibility and our job.

I find it interesting that we read in the newspapers today and viewed on television last night that there is to be a briefing of congressional leaders by the President as to what was going on in the CIA. It that not something that the congressional leaders should have known, without getting a briefing from the President of the United States? Is that not something on which perhaps we should brief the President? Of course, we are in no position to do so, because we do not know anything about it.

Whereas I have uncovered certain abuses in the CIA, the FBI, the military intelligence, and the Secret Service, I cannot honestly stand here and say that that is all that went on. There has been no agency accountability to Congress. This is not to say that we do not have oversight functions in the various committees, but as the distinguished Senator from Tennessee pointed out, it is an ancillary duty; it is not the principal duty of those committees. The chairmen and the members of those committees have substantial burdens in the areas of the judiciary, foreign relations, and defense. So oversight of the law enforcement intelligence community suffers.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). The time of the Senator has expired. Does the Senator desire additional time?

Mr. WEICKER. I request an additional 2 minutes.

The PRESIDING OFFICER. Without objection, the time will be taken out of the time allotted to the Senator from West Virginia (Mr. ROBERT C. BYRD).

Mr. WEICKER. Congress itself has long been reluctant to ask the hard questions, and insist on the policy supervision that assures the accountability of agencies such as the CIA, the FBI, the Secret Service, the Defense Intelligence Agency, the National Security Agency, and numerous others charged with gathering intelligence and surveillance of persons.

With no accountability, we can readily anticipate abuse of agency powers and constitutional rights. The record of these abuses in the last few years cannot be dismissed as isolated instances of individual excesses. It is a record that

tears at the very fabric of our constitutional democracy.

The lesson of these abuses of the national intelligence function is that accountability cannot be assured without congressional oversight, oversight that has constancy, purpose, and real power to get the facts out.

It is in this interest of strengthening this congressional oversight responsibility, that Senator BAKER, Senator CHURCH, Senator CRANSTON and I are today introducing legislation to establish the Joint Committee on Intelligence Oversight, with broad powers to authorize, investigate, and legislate on matters related to the intelligence agencies, as well as to the intelligence activities of all other Federal agencies and departments.

In this way, we seek to consolidate the congressional intelligence oversight function in one joint committee with sweeping powers to demand full and current accountability.

Mr. President, this is the opportunity for Congress to act. The facts are on the table, and now the American people look to us for leadership. Otherwise, the abuses that occurred de facto become a part of the laws of this Nation. What a tragedy that would be, in light of what those facts say.

The joint committee would be composed of 14 members evenly divided between the House and Senate, chosen by the leadership. In order that this important committee remains independent and healthily skeptical, we would encourage the leadership of both Houses to consider some form of rotating membership for the joint committee.

The joint committee would possess primary authorization and legislative jurisdiction over all activities and operations of: the Central Intelligence Agency, the Federal Bureau of Investigation, the U.S. Secret Service, the Defense Intelligence Agency, and the National Security Agency, as well as over all intelligence or surveillance activities or operations of any other department or agency of the Federal Government.

The bill clearly states that the directors of the above-named agencies—shall keep the Joint Committee fully and currently informed with respect to all of the activities of their respective organizations, and the heads of all other departments and agencies of the Federal Government conducting intelligence activities or operations or the surveillance of persons shall keep the Joint Committee fully and currently informed of all intelligence and surveillance activities and operations carried out by their respective departments and agencies.

The joint committee may require from any department or agency of the Federal Government periodic written reports regarding activities and operations within the jurisdiction of the joint committee. To back up requests for relevant information, the committee would have full subpoena powers.

Furthermore, the proposed legislation provides that:

No funds may be appropriated for the purpose of carrying out any intelligence or surveillance act or operation by any office, or any department, or agency of the Federal Government unless such funds for such

activity or operation have been specifically authorized by legislation enacted after the date of enactment of this act.

Therefore, the budgets of secret agencies like the CIA and NSA could not be hidden in Defense appropriation bills, and no blanket authorizations could be used to avoid the committee's scrutiny of intelligence agency budgets.

While the creation of the joint committee would not deprive the current oversight committees—Armed Services, Appropriations, Foreign Relations, and so forth—of the opportunity to exercise oversight over intelligence matters related to the jurisdiction of these committees, no legislation or no provision contained in any legislation dealing with any matter within the jurisdiction of the joint committee can be considered by either House unless such legislation has been reported by the joint committee or is a floor amendment to committee legislation.

And, given national security considerations, the joint committee would be empowered to take any and all precautions necessary to maintain the confidentiality of sensitive information before it.

The hearings last year before the Senate Select Committee on Presidential Campaign Activities documented the systematic abuse of governmental agencies.

The facts of the White House responsiveness programs which pressured Federal agencies to favor political friends and disadvantage enemies are startling indeed. But the litany of White House domestic and foreign intelligence operations conducted under the banner of "national security" can only be termed a national disgrace.

The executive branch had at its disposal a massive intelligence apparatus—the CIA, the FBI, the National Security Agency—NSA—and the Defense Intelligence Agency—DIA. The Nixon administration simply used at home what had been developed in clandestine operations abroad.

This was the proposal of Tom Charles Huston in his July 1970 memorandum to White House Chief of Staff H.R. Haldeman. Huston wrote:

In the past there has been no systematic effort to mobilize the full resources of the intelligence community in the internal security area. . . . Domestic intelligence information coming into the White House has been fragmentary and unevaluated. . . . Unlike most of the bureaucracy the intelligence community welcomes direction and leadership from the White House.

In other words, the intelligence community was available, acquiescent and unaccountable.

And what did this facade of "national security" really cover up?

These were the sordid activities it justified:

In a massive operation, mail sent to a Democratic Party was opened and photographed by the U.S. Army.

Military agents spied on a group of McGovern supporters in Berlin.

Internal Security Division of the Justice Department on a daily basis, provided the Committee to Re-Elect the President information on individuals of a political and nonpolitical nature.

An FBI agent was used by the White House to spy on Newsday which was doing an article on one of the President's friends.

The FBI conducted an investigation on Daniel Schorr, an investigation designed by the White House to embarrass and harass.

The CIA provided support materials to E. Howard Hunt for the purposes of an illegal entry and burglary into offices of Daniel Ellsberg's psychiatrist.

This litany could run for pages, but the message is clear and convincing: Unless Congress exercises its oversight responsibility over the intelligence community, our constitutional democracy is vulnerable to continued subversion.

Congress must act now to reaffirm the accountability of the American intelligence community.

Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the final Watergate report.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

EXCERPTED FROM FINAL WATERGATE REPORT  
(By Senator LOWELL WEICKER)  
THE INTELLIGENCE COMMUNITY

The attitudes and policies that led to Watergate had a profound impact on the intelligence community, from the FBI and the CIA to the lesser intelligence sections of other agencies.

Soon after the new administration took office in 1968, there seems to have been a basic dissatisfaction within the White House as to our existing intelligence capabilities. They were variously considered too timid, too bound by tradition, and generally incapable of acting effectively with respect to what the White House perceived as necessary intelligence.

One of the responses by the White House was to set up a plan, an intelligence plan, so that the objectives, methods, and results of the intelligence community would coincide with the White House. This plan was drafted by Tom Charles Huston in early 1970,<sup>107</sup> and came to be known as the 1970 Domestic Intelligence Plan, or the Huston Plan.

Much of the plan, which has been described previously,<sup>108</sup> was illegal, either in its objectives or in the methods it proposed.

Nevertheless, there are numerous indications, in evidence received by this Committee, that the types of activities recommended in the plan were carried out in the following years. The net effect was to subvert or distort the legitimate intelligence functions of the government.

The plan recommended an expanded use of electronic surveillance. However, the expanded wiretapping that took place in succeeding years was done outside legitimate channels, such as the 17 so-called Kissinger taps,<sup>109</sup> the tap on Joseph Kraft,<sup>110</sup> the

<sup>107</sup> According to Mr. Haldeman, "the President set up an interagency committee consisting of the Directors of the FBI, the CIA, the Defense Intelligence Agency and the National Security Agency," and "Mr. Huston, the White House staff man for this project, was notified by a memorandum from me of the approval of the President." Testimony of H. R. Haldeman, Vol. 7, 2875.

<sup>108</sup> See, notes 183-186.

<sup>109</sup> Testimony of Robert Mardian, Vol. 4, pp. 2392-2393; John Ehrlichman, Vol. 4, p. 2629; and John Dean, Vol. 3, p. 920.

<sup>110</sup> Testimony of John Dean, Vol. 3, p. 919. In June, 1969, Ehrlichman directed Caulfield in lieu of the FBI to place a national security tap on Kraft's home phone. Caulfield con-

Watergate wiretaps, and even the wiretap on the President's brother.<sup>201</sup>

The second element of the plan called for surreptitious entries. Burglaries in fact took place at the office of Dr. Ellsberg's psychiatrist,<sup>202</sup> at the Democratic National Committee, at the office of publisher Hank Greenspun, according to multiple evidence;<sup>203</sup> and were suggested or planned for the offices of the Potomac Associates,<sup>204</sup> The Brookings Institute,<sup>205</sup> and Senator McGovern's campaign headquarters.<sup>206</sup>

Mall sent to an affiliate of the Democratic party was opened and photographed by the United States Army, in a well-documented and apparently massive operation,<sup>207</sup> and military agents spied on the Concerned Americans in Berlin, a group of McGovern supporters who were officially recognized by the Democratic party.<sup>208</sup>

The specific actions proposed by Huston are only one aspect of the plan. Equally important are the policy recommendations. The heart of this new policy was better coordination and use of existing intelligence from all areas of the government.<sup>209</sup> The means of carrying it out was to be a new intelligence "Committee" sitting above all the agencies. Again, the plan was carried out.

On September 17, 1970, an Intelligence Evaluation Committee was set up in the White House.<sup>210</sup> It was to receive information from the CIA, the FBI, the National Security Agency, and other intelligence sections. Notwithstanding the fact that the statutes prohibit the CIA from participating in any domestic intelligence function, it was called upon to evaluate domestic intelligence-gathering by the other agencies when the Intelligence Evaluation Committee was set up. This intelligence was to be digested by the CIA experts and then disseminated for use wherever useful, regardless of the statutory limits placed on the agency that collected the information.<sup>211</sup>

What was important about setting up that Committee was not the work it actually did, but rather the legitimization of a concept. That concept was that intelligence functions of the various agencies were there for whatever purpose the Executive decided it

tacted Jack Regan, former FBI agent, who ultimately installed the tap. Executive Session of John Caulfield, March 23, 1974.

<sup>201</sup> Presidential Press Conference, November 17, 1973.

<sup>202</sup> Testimony of Howard Hunt, Vol. 9, p. 3663.

<sup>203</sup> Testimony of Howard Hunt, Vol. 9, p. 3687. See Transcripts of Presidential Conversations, Sept. 15, 1972.

<sup>204</sup> White House memo, July 8, 1971, from John Caulfield to John Dean, stating in part, "a penetration is deemed possible if required."

<sup>205</sup> Testimony of John Dean, Vol. 3, p. 920; Executive Session of John Caulfield, March 23, 1974.

<sup>206</sup> Testimony of Howard Hunt, Vol. 9, p. 3686.

<sup>207</sup> See, testimony of Senator Lowell P. Weicker, hearings on Warrantless Wiretapping and Electronic Surveillance, relating to intelligence activities of the United States military directed against "The Concerned Americans in Berlin," an affiliate of the American Democratic party. (Exhibit 8)

<sup>208</sup> Id.

<sup>209</sup> This was the final section of the 1970 Domestic Intelligence Plan, entitled "Measures to Improve Domestic Intelligence Operations." Vol. 3, Ex. 35, p. 1323. See testimony of John Dean, Vol. 4, p. 1457.

<sup>210</sup> The memo to the Attorney General describing the setting up of the IEC was quoted in full in the text of the hearings. Vol. 3, p. 1063.

<sup>211</sup> Testimony of John Dean, Vol. 3, pp. 918-919, 1057-1974, and Vol. 4, p. 1457.

wanted, not for the purposes Congress decided by statute.

As an illustration, Mr. McCord testified that he eventually received information for use by CRP from the Internal Security Division of the Justice Department, on a daily basis.<sup>212</sup> It included information from the FBI, pertained to individuals, and was of a political as well as non-political nature.<sup>213</sup> This arrangement was made pursuant to a request sent to Mr. Mitchell from Mr. McCord, which led to a call from Assistant Attorney General Mardian in which he relayed the Attorney General's approval and told McCord to work through the Internal Security Division.<sup>214</sup>

The Internal Security Division of the Justice Department also provided political legal assistance to the White House. For example, it provided information regarding demonstrators, and information that would embarrass individuals in connection with their relationship with demonstrators and demonstration leaders.<sup>215</sup>

Another illustration of misuse of intelligence was the request made to the IRS, on July 1, 1969, by Mr. Huston, to set up a means of "reviewing the operations of Ideological Organizations."<sup>216</sup> Soon the IRS had set up an "Activists Organizations Committee,"<sup>217</sup> collecting intelligence to "find out generally about the funds of these organizations." An internal memo pointed out that "its activities should be disclosed generally only to those persons who need to know, because of its semi-secretive nature." "We do not want the news media to be alerted to what we are attempting to do or how we are operating because the disclosure of such information might embarrass the Administration." "The type of organization in which we are interested may be ideological . . . or other." "In effect, what we will attempt to do is to gather intelligence data on the organizations in which we are interested and to use a Strike Force concept."<sup>218</sup> This was not tax collection; it was the IRS being converted into an intelligence agency; and it was stopped in the midst of this Committee's hearings in mid-1973.

The next step was when the IRS began gathering intelligence from other parts of the government, with no attempt made to restrict this to tax-related information. Arrangements were made with the military, the Internal Security Division of the Justice Department, and the Secret Service to turn over information on individuals or groups.<sup>219</sup> So

<sup>212</sup> McCord received information, including FBI data, from the Internal Security Division of the Justice Department, upon his request to Attorney General Mitchell. Mitchell told Mardian to direct McCord to I.S.D., where McCord's contact was John Martin, Chief of the Evaluation Section. Testimony of James McCord, Vol. 1, p. 178.

<sup>213</sup> Id., at 181.

<sup>214</sup> Id., at 178.

<sup>215</sup> Testimony of John Dean, Vol. 3, pp. 918-919.

<sup>216</sup> Memo from Tom Huston to Roger Barth, Asst. Commissioner of IRS, August 14, 1970.

<sup>217</sup> See testimony of Senator Lowell P. Weicker, hearings on Warrantless Wiretapping and Electronic Surveillance, April 8, 1974 (Exhibit 1, memo by D. O. Virdin of the IRS; report of meeting to set up an "Activists Organizations Committee").

<sup>218</sup> Id.

<sup>219</sup> For example, on December 4, 1969, D. W. Bacon, Asst. Commissioner, IRS, contacted Colonel Heston C. Cole, Counterintelligence Division, Directorate Office of Special Investigations, and on January 26, 1970 the IRS contacted Director Rowley of the Secret Service, in both cases to coordinate intelligence-gathering operations through the Activists Organizations Committee. See, testimony of Senator Lowell P. Weicker, hearings on Warrantless Wiretapping and Electronic Surveillance, April 8, 1974.

long as the IRS has the power to be a potential harassment for the average citizen if audits are not conducted on an objective basis this procedure of developing files on dissenting citizens must be questioned. The more important point is that IRS duties and responsibilities are spelled out by the Congress, and such an operation is not one of them.

The IRS and the Justice Department were not the only agencies pressured into assisting White House intelligence demands. A Secret Service agent spied on Senator McGovern,<sup>220</sup> when supposedly protecting him during the campaign. When the White House was informed of this, no objection was made.

An FBI agent was used by a White House staff member to spy on a Long Island newspaper doing an article on one of the President's friends.<sup>221</sup> The Commerce Department was called on to provide commercial information in a project that it was hoped would embarrass Senator Muskie.<sup>222</sup> The Department of Defense was used to find out information as to Senator McGovern's war records, at a time when there were public charges that he may have acted with cowardice.

There was testimony to the effect that there was nothing short of a basic policy to use any governmental agencies to seek politically embarrassing information on individuals who were thought to be enemies of the White House. The so-called "enemies list" was maintained in the White House for this purpose, and a memo was prepared to implement a means of attacking these enemies.<sup>223</sup>

Apparently it was not enough to maneuver the intelligence community and related agency functions. Plans were made to take what is clearly a function of government outside the government, to set up an independent intelligence operation.

The first plan was put forth by Mr. Caulfield, in proposals to Messrs. Dean, Mitchell and Ehrlichman. He suggested a private security entity that would be available for White House special projects, thereby insulating the White House from its deeds. It was called Operation Sandwedge.<sup>224</sup>

Mr. Caulfield rejected the Sandwedge plan, and it was apparently replaced with an operation that came to be known as the "Plumbers." In the meantime, Caulfield began conducting intelligence functions from a position on the White House counsel's staff, functions that properly belong in the agencies, if anywhere.

<sup>220</sup> White House memo from Steve Karalekas to Charles Colson, August 18, 1972, referring to the activities of Agent Bolton. See also, testimony of John Dean, Vol. 3, pp. 923, 1071.

<sup>221</sup> John Caulfield testified that he requested a New York City FBI agent to go out to the *Newsday* offices. This was done, and included a report of the newspaper's confidential publication schedule. Executive Session of John Caulfield, March 23, 1974.

<sup>222</sup> Memo to Charles Colson from Thomas Thawley, Deputy Asst. Secretary of Commerce, April 18, 1971.

<sup>223</sup> White House memo from John Dean, August 18, 1971, entitled "Dealing With Our Political Enemies." Vol. 4, Ex. 48, p. 1689.

<sup>224</sup> Drafted in late summer 1971, Operation Sandwedge called for an offensive intelligence-gathering operation for infiltration of campaign organizations and headquarters with "undercover personnel, surveillance of Democratic conventions and meetings, derogatory information-seeking investigations, and 'black bag' activities. Though dropped from active consideration by late 1971, Operation Sandwedge can be seen as a precursor of the Gemstone Plan which achieved the capabilities championed by Caulfield. See, Caulfield Executive Session, March 23, 1974; See also, Campaign Practices Section of Select Committee Report, exhibit of memorandum of Caulfield to Dean entitled "Operation Sandwedge." See also, Vol. 2, p. 788; Vol. 3, pp. 924-6; Vol. 6, p. 2337.



Caulfield was instructed, for example, to develop political intelligence on Senator Kennedy, including instructions from the Assistant Attorney General to obtain certain information about the travels of Mary Jo Kopechne.<sup>223</sup> When he took the job, he told Mr. Ehrlichman that he would hire an ex-New York City policeman to do investigative work.<sup>224</sup>

Mr. Ulasewicz was then used to collect information on various enemies, political, ideological, and personal. A sample of his activities reveals not only why intelligence should not be outside the checks of a professional organization, but also the rather broad scope of what the White House was in fact doing. His investigations included such things as Richard Nixon's old apartment in New York, a Kennedy official trip to Hawaii, name checks on White House visitors, the President's brother, political contributors to a dozen Senators who opposed the administration, Jefferson Hospital in Philadelphia, Louis Harris Polls the Businessmen's Education Fund, the House of Mercy home for unwed mothers, the U.S. Conference of Mayors, a comedian named Dixon, Mrs. Rose Kennedy's secretary, and Birmingham, Alabama City Council, Mayor, and Executive Staff.<sup>225</sup> And that is just a sample of the much larger number of his investigations. Many of them are clearly the responsibility of established agencies, if they are anybody's responsibility at all.

Eventually, a semi-official unit, the Plumbers, was established within the White House, with a combination of police and intelligence duties. It conducted what Mr. Mitchell referred to in his testimony as the "White House horrors."<sup>226</sup> According to Mitchell, these operations were so wrong that if the President had heard about them he would have "lowered the boom", even though there is other evidence that the President did know about them and didn't lower any boom.<sup>227</sup>

The legitimate intelligence agencies were used to support this operation, specifically by providing materials for their operations. General Cushman of the CIA testified that after a personal request from Mr. Ehrlichman, CIA technical services people provided Mr. Hunt with a drivers license, social security card, wig, and speech altering device,

which were delivered to a "safe house" off CIA premises per Hunt's instructions.<sup>228</sup>

Around August, 1971, Hunt began to make additional demands on the CIA: first, for a stenographer to be brought in from Paris, which Cushman and Director Helms considered merely a face-saving move and rejected. Later demands were made for a tape recorder in a typewriter case, a camera in a tobacco pouch, for film development, and for an additional alias and false papers for another man ("probably Liddy"), which requests came to Cushman's attention after they had been granted by the technical services people.<sup>229</sup>

After Hunt's additional demands and a subsequent request for a New York address and phone services, Cushman and Helms decided Hunt's requests had exceeded his original authority. On August 31, 1971, Hunt made a final request, for a credit card, which was denied.<sup>230</sup>

Mr. Young of the Plumbers unit asked the CIA to do a psychological profile of Dr. Ellsberg. It was clearly a domestic project, the only one of its type ever requested, according to Gen. Cushman of the CIA, who also testified that such profiles are reserved for foreign leaders. Nevertheless, it was done, but Mr. Young considered it unsatisfactory, so another profile was prepared and sent.<sup>231</sup> Other projects spanned a broad range, such as spiriting Dita Beard from the East Coast to a Denver hospital, and a subsequent trip to Denver by Hunt in disguise to question her about the ITT affair.<sup>232</sup> To bring the full influence of the White House to bear on this extraordinary activity, Mr. Ehrlichman testified that he personally introduced Messrs. Krogh and Young, who headed up the Plumbers to the heads of various agencies, such as the Secretary of Defense, the Attorney General, and the Director of the CIA.<sup>233</sup>

Members of the Plumbers eventually went on to similar work for the Committee to Reelect. Although they were clearly outside the government, they again used the legitimate agencies. Ex-CIA employees were recruited on the basis of their loyalty to the CIA. National security responsibilities were misused. Mr. Barker was even told that the interests of national security he was serving were above the FBI and the CIA.<sup>234</sup> To reinforce this position, classified and critical information about the mining of Haiphong harbor was relayed to Barker the day before the President's announcement.<sup>235</sup> This was not only a misuse of secret Defense Department intelligence, but it also furthered a misuse of national security entrustment in the executive branch.

<sup>220</sup> Vol. 8, pp. 3292-93.

<sup>221</sup> Id.

<sup>222</sup> Id.

<sup>223</sup> Id., at p. 3311.

<sup>224</sup> Shortly after the ITT memo was published in February, 1972, Mr. Liddy transported Dita Beard from Washington to a hospital in Denver. In his interview there, Mr. Hunt elicited from Dita Beard a public statement that the memo was a fraud. Testimony of Robert Mardian, Vol. 6, p. 2359; Howard Hunt, Vol. 9, pp. 3752-53.

<sup>225</sup> Mr. Ehrlichman testifies further that Mr. Krogh and Mr. Young "described the function of the special unit" (the Plumbers) to the heads of the various agencies. Vol. 7, p. 2691.

<sup>226</sup> Testimony of Bernard Barker, Vol. 1, p. 360.

<sup>227</sup> Mr. Hunt testified that he was "in very general terms aware of" the President's speech announcing the bombing of Haiphong harbor prior to the speech. Hunt requested that Mr. Barker "attempt to have as many telegrams as possible sent to the White House . . . manifesting approval of the President's move." Testimony of Howard Hunt, Vol. 9, pp. 3745-46.

In a different type of situation, Mr. Haldeman was appointed "the Lord High Executioner of leaks". This technique of attacking and solving the leaks problem illustrates the contempt for normal government functions. It resulted in Mr. Caulfield, by his own testimony, being directed by Ehrlichman to wiretap a newsman's telephone (Joseph Kraft) in pursuit of a leak,<sup>236</sup> outside the safeguards of government wiretap procedures and regulations. There are capabilities within the legitimate operations of our government for handling such a problem. The attitude that these problems had to be treated independently was the same attitude that led to the 17 Kissinger taps being installed outside normal FBI channels and Mardian's instructions from the President regarding the disposition of those wiretap logs "that related to newsmen and White House staff suspected of leaking",<sup>237</sup> and that led to unusual and perhaps illegal White House involvement in the Ellsberg case itself.

There is a reason for demanding that government officials use only the tested and accountable facilities of government. It has been illustrated by the kind of projects undertaken independently by the White House.

The final contempt for the intelligence community can be seen in efforts to exploit them in the coverup. Mr. Ehrlichman said that he and Mr. Haldeman had spoken to General Walters and Mr. Helms of the CIA shortly after the Watergate break-in.<sup>238</sup> Ehrlichman further said that Walters was a friend of the White House and was there to give the White House influence over the CIA.<sup>239</sup> Dean testified that Ehrlichman asked him to explore the possible use of the CIA with regard to assisting the Watergate burglars.<sup>240</sup>

On June 23, 1972, Mr. Haldeman and Mr. Ehrlichman met with Director Helms and General Cushman of the CIA. According to Director Helms, Haldeman said something to the effect that it had been decided that General Walters was to go talk to FBI Director Gray and inform him that "these investigations of the FBI might run into CIA operations in Mexico" and that it might be best if they were tapered off—or something like that.<sup>241</sup> According to General Walters, Haldeman directed Helms to inhibit the FBI investigation on grounds that it would uncover CIA assets in Mexico. Haldeman also indicated he had information the CIA did not have, and that five suspects were sufficient.<sup>242</sup> When Director Helms and Director Gray of the FBI scheduled a meeting between themselves on June 28, 1972, Mr. Ehrlichman intervened and canceled the meeting, thus preventing any independent contacts.

At a later time, Mr. Dean discussed with General Walters the possibility of using covert CIA funds to pay the Watergate defend-

<sup>228</sup> See note 21, supra.

<sup>229</sup> The President instructed Mr. Mardian in the fall of 1971 to transfer the logs from Mr. Sullivan, Assistant Director of the FBI, to Mr. Ehrlichman, who kept them in his safe for over a year. Testimony of John Dean, Vol. 3, pp. 920-21.

<sup>230</sup> Ehrlichman and Haldeman were instructed to insure that covert CIA activities were not exposed by the Watergate investigation being conducted by the FBI. Vol. 6, p. 2557.

<sup>231</sup> On June 26, 1972, Mr. Dean on Mr. Mitchell's suggestion, sought through Mr. Ehrlichman to contact the CIA as to the Watergate break-in. Vol. 3, p. 946.

<sup>232</sup> Mr. Dean indicated to Gen. Walters that witnesses were wobbling and could cause problems, and asked if the CIA could raise bail for some of these defendants. Testimony of John Dean, Vol. 3, p. 1037; Vol. 4, p. 1461.

<sup>233</sup> Testimony of Richard Helms, Vol. 8, p. 3238.

<sup>234</sup> Memorandum of General Walters, Vol. 7, Ex. 101, pp. 2948-49.

1973, the CIA was asked by the White House to take custody of Justice Department files on Watergate, but the request was denied.<sup>24</sup>

Mr. McCord testified that at the time of the Watergate trial, pressure was brought on himself and other defendants to claim for purposes of a defense that Watergate was a CIA operation.<sup>25</sup>

The FBI was likewise abused in numerous ways. Some of these, such as turning over Hunt's files to Mr. Gray, have been well documented. But there were other examples. The FBI set up the so-called Kissinger wiretaps outside channels, effectively insulating them from routine discovery and accountability, and at the President's instructions, Mr. William Sullivan (who had supervised the wiretaps) turned over all evidence of them to the White House when it was reportedly related to the President that Hoover might use them to preserve his job.<sup>26</sup> The FBI ran an investigation of CBS newsmen Daniel Schorr, in what was a White House tactic to embarrass him, according to one witness.<sup>27</sup>

Mr. Ehrlichman testified that he was instructed after the Watergate break-in to see to it that the FBI investigation did not uncover the Ellsberg break-in or get into the Pentagon Papers episode.<sup>28</sup>

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent that the distinguished Senator from Michigan now be recognized under the order previously entered, without prejudice to the distinguished Senator from Idaho (Mr. CHURCH).

The ACTING PRESIDENT pro tempore (Mr. METCALF). Without objection, it is so ordered.

Mr. HART, Mr. President, I am delighted to have the opportunity today to join the Senator from Connecticut (Mr. WEICKER), the Senator from Idaho (Mr. CHURCH), and the Senator from Tennessee (Mr. BAKER) in introducing proposed legislation for a joint committee

to oversee and evaluate the intelligence gathering, surveillance, and covert political action undertaken by our national intelligence establishment.

Such an idea is new. It has been proposed and sidetracked in the past. But as the distinguished Senator from North Carolina (Mr. ERVIN) often reminds us, the Bible speaks of a time and a season for everything. Now is the time, the season, for such a committee.

Hopefully, one legacy of Watergate and of revealed efforts to subvert elected governments abroad will be this overdue step to reassert democratic control over foreign policy and to preserve a free environment here in America.

To create such a committee does not require criticism of past efforts by existing oversight subcommittees in each House of Congress to monitor particular portions of the intelligence community. We can recognize the sharp increase in public concern over the threat of improper surveillance and other clandestine activity by Government agencies. We can recognize as the Senator from Connecticut has just emphasized, that Congress needs the benefit of comprehensive scrutiny of all Government intelligence, surveillance and covert political operations if it is to carry out its constitutional responsibilities and to reassure the public.

And finally, we can recognize that such systematic evaluation and monitoring can best be done by a joint committee with the broadest charter, the resources and the status comparable to the Joint Atomic Energy Committee.

Mr. President, we have had considerable discussion in the past year of such problems as the alleged national security wiretaps on newsmen and others, the so-called plumbers' operations, the FBI "Co-Intel-Pro" effort to disrupt and discredit dissident political groups, and Army surveillance of American citizens. These and many other issues which would be addressed by the joint committee proposed here today will be the subject of further comment as the merits of this bill are debated. Today, let me confine my remarks to another important area of oversight covered by this proposal: covert political operations in foreign countries.

Last week the Center for National Security Studies held a very significant conference on the conduct of covert political operations—as distinct from intelligence gathering—by our clandestine agents in other countries. Participants included former CIA officials, CIA Director William Colby, others who have held responsible positions in the national security machinery of our Government, and informed journalists and scholars. One point which emerged from the conference sessions was that several strawman arguments might easily divert attention from the real issues in regard to covert operations. It is important to keep in mind what the issues are and what they are not.

Those who defend the present operations of the CIA and its oversight by Congress suggest that critics naively fail to appreciate our need for accurate intelligence. That is nonsense. No one, in-

cluding those of us introducing this bill, doubts the importance of intelligence about what is happening in the world—or about what might happen which could endanger American security. And, of course, we appreciate that the balance of nuclear deterrence particularly requires accurate, strategic intelligence.

To question the extent of our covert political capability and activities is neither to imply that intelligence is bad nor that we do not need a CIA. Some intelligence gathering must be covert. But we must keep in mind that much of it is derived from careful analysis of open sources or diplomatic reporting. Most of the rest, especially in the crucial area of strategic intelligence on nuclear weapons, comes from technical means such as satellite reconnaissance.

Moreover, evaluation of intelligence is done by the analysts of the CIA's Directorate for Intelligence—and their counterparts at other agencies—and not by the covert operators. Indeed, one of the concerns about covert operations is that they not only may have a distorting effect on our professed foreign policy goals but also that they distort the priorities of the intelligence community. I think this is true particularly for the CIA. In some instances, the past or current operations, or future plans, of covert operations may even affect the objectivity of the intelligence analyses provided our top policymakers and to Congress.

In short, the organization of the national security establishment to obtain and use intelligence is an important question for our proposed committee to examine. But it is distinct from the more pressing question of the impact which covert political operations have, both in other countries and ultimately in our own society.

Second, if our concern is to enhance the intelligence function and not to do away with it, neither are we saying that the United States should never, under any circumstances, interfere with the internal affairs of other nations. We could not rid ourselves of that option entirely even if we wanted to do so.

But there is a legitimate concern about the far-flung empire of thousands of agents or contract employees, of large commercial cover operations, airlines, banking operations, and a large bureaucracy which together create a tremendous momentum to use the Agency's covert "assets" because they are there.

While we may hear a lot about the threat posed by Russia's nuclear arsenal, covert political operations have long since proved of little value against such closed societies. Such operations are not aimed in any significant degree at Moscow or Peking today.

Rather they are aimed at so-called third-world countries where penetration and political corruption or clandestine use of force may be easier but the threat posed to national security of the United States is also much more difficult to perceive.

As Director Colby noted in a speech before the conference on covert operations last week, the world and our perception of our interests have changed substan-

<sup>24</sup> Testimony of John Dean, Vol. 3, p. 1937.  
<sup>25</sup> On February 9, 1973, Mr. Dean called the new Director of the CIA, Mr. Schlesinger, and suggested that the Justice Department be required to return to the CIA a package of all the materials turned over to Justice regarding Hunt and the break-in at Dr. Fielding's office. Mr. Schlesinger and General Walters decided this was "out of the question". Testimony of General Walters, Vol. 9, pp. 3417-19.

<sup>26</sup> Testimony of James McCord, Vol. 1, pp. 193-98.

<sup>27</sup> In July, 1972, Mr. Sullivan, Associate Director of the FBI, informed Mr. Mardian of the existence of "some very sensitive national security surveillance logs that were not . . . in-channel", that Mr. Hoover might use to preserve his job. Mr. Mardian then flew by courier plane to see the President in San Clemente, who directed him to obtain the reports from Mr. Sullivan and deliver them to Mr. Ehrlichman. Testimony of Robert Mardian, Vol. 6, pp. 2392-93.

<sup>28</sup> Mr. Haldeman requested Mr. Higby to direct the FBI to investigate Daniel Schorr. But "to the dismay of the White House, Mr. Hoover proceeded with a full field wide-open investigation" which became apparent and "put the White House in a rather scrambling position to explain what had happened." Ultimately the White House attempted to explain that Mr. Schorr was being considered for a Presidential appointment in the environmental field. Testimony of John Dean, Vol. 3, 1071.

<sup>29</sup> Testimony of John Ehrlichman, Vol. 6, p. 2544.

tially and this has affected the importance of covert operations. Let me quote briefly from what he said:

It is advocated by some that the United States abandon covert action. This is a legitimate question, and in light of current American policy, as I have indicated, it would not have a major impact on our current activities or the current security of the United States. I believe, however, that a sovereign nation must look ahead to changing circumstances. I can envisage [sic] situations in which the United States might well need to conduct covert action in the face of some new threat that developed in the world.

As he clarified in response to questions at the conference, it is Mr. Colby's view that no operations currently underway or contemplated are vital to our security at this time.

His main argument seems to be that we should maintain this capability because times may change.

No one can deny that the future is uncertain, but against that we must weigh the known costs of maintaining this capability under current executive branch decision procedures and congressional oversight.

In Laos the President waged a secret war financed and run by the CIA. The Constitution says nothing about a secret war—a concept which the Executive now seems to take as its prerogative. The Constitution does not give the President power to order advisers who are nominally civilians into the field to make war in the secret name of the United States.

In Chile we admittedly spent millions of dollars over many years. First we tried to keep former President Allende out of power, and then when he was duly elected, to "destabilize" his government. We are now told that the latter effort, which even a high school student could suspect would spark a coup, was necessary to "preserve the forces of democracy in Chile."

Indeed, former CIA officials and present representatives of the State Department have suggested that Allende's government was not to be taken seriously because it was elected by a mere plurality. Well, so are many elected officials in the United States, including U.S. Senators.

I am afraid we may be glimpsing an attitude all too reminiscent of the American military officer in Vietnam who blandly explained to newsmen that we had to destroy a Vietnam village in order to save it. Are we also prepared to subvert the democratic political process in other countries in order to "promote the forces of democracy?" The result in Chile at least has been to precipitate a repressive abolition of constitutional government and widespread violation of minimal civil liberties.

We had best extricate ourselves from the quicksand of such Orwellian double-speak before it is too late. The first step is to take a very careful look at our covert operations.

At home the consequences have been equally troubling: The perceived need to deny covert operations has led official after official in successive administrations to lie to the Congress, or, as the Executive seems to prefer to describe it, to deceive without actually lying. Thus,

Congress was not told about the secret war in Laos because, as one official later explained, the right question was not asked. When Mr. Helms was asked the right question about Chile, he seems to have lied.

Nothing is more corrosive to constitutional government than deception of Congress by the Executive. If that is the price for covert operations, it is too high a price. It becomes an absurd price when even the Director of Central Intelligence asserts that cancelling all such operations would not now have a major impact on our security.

The existence of this covert apparatus tempts Presidents to use it for illegitimate purposes. It is unnecessary to recite again the degree of CIA involvement in Watergate, much of it denied until exposed in Senator BAKER's extremely important report. But we must ask if we have learned anything. Are we simply to count on the hope that no future President will be equally tempted?

It is virtually impossible for Congress to exercise its responsibilities when it is ignorant of the facts. Congress could not long be kept in the dark about operations such as the Laotian one if a majority of both Houses were to insist—by exercising their power of the purse—that Congress should be informed. Catch 22, of course, is that we cannot demand to be told information unless we know what that information is, and if we knew in the first place, we would not need to be told.

As Morton Halpern and Jeremy Stone put it in an earlier analysis of this problem—

The Executive branch thrives on secrecy because secrecy frees it from Congressional, judicial and public scrutiny. But the Congress suffers from secrecy because its power is based on the ability to expose, to rally public opinion, to maintain dialogue between constituents and elected officials and the press.

In a sense this problem is simply one part of the larger question of secrecy in regard to all aspects of national security affairs—Congress cannot obtain all the information it needs, or if it does obtain it, cannot use it to make a case to the American people, because the information is secret.

To a great extent, the best approach to this larger difficulty may be the most direct: simply to point out that the Emperor has no clothes and that much of the withheld material need not be secret for any reason other than to protect the Executive from criticism or embarrassment.

But covert operations are inherently secret. If they are made public they then become, by definition, part of our overt foreign policy. One cannot say: "Make them public and let us have a national debate on whether we should engage in this particular covert operation." But one can ask: "Is this trip really necessary? Do such large scale and frequent covert operations make sense. When should we be undertaking them?"

We can discuss and demand information regarding past covert operations. We can insist that the Congress and the American people be made aware of, and understand the implications of the kinds

of covert activities we engage in abroad and the extent and frequency with which we undertake them.

All of this is essential for Congress to be able to conduct meaningful oversight of foreign policy—oversight which does not prove superficial or irrelevant in light of subsequently revealed secret operations.

But for me the most important long-range issue is the understanding by the American people of the impact such operations can have on our own society. What is its impact on the Government's general attitude toward deception, on the Government's general attitude toward dissident political views viewed as a threat to stability or on its attitude toward using dirty tricks and other questionable means to achieve desired ends?

Mr. President, Disraeli once said of a political opponent that his conscience had become an accomplice rather than a moral guide. It is important we make sure that our national conscience remains a guide and does not become our mere accomplice. Strengthened oversight of all clandestine activity is an essential element of that resolve.

Mr. President, I ask unanimous consent that the entire article by Morton H. Halperin and Jeremy J. Stone on this subject from which I quoted be included in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

#### SECRECY AND COVERT INTELLIGENCE COLLECTION AND OPERATIONS

(By Morton H. Halperin and Jeremy J. Stone)

We aim in this paper to assess the effects of secrecy on the conduct of American covert intelligence collection and covert operations, and the effects of those programs on American society and foreign policy. We begin with a description of the structure by which the executive branch plans and carries out covert intelligence collection and operations and then briefly discuss covert activities in which the United States has engaged since World War II. This is followed by an analysis of the costs of such operations, with particular emphasis on the decision-making within the executive branch, the effect on American society, and the effects on American foreign policy. We conclude with an analysis of the covert operations and intelligence programs and some specific recommendations.

#### I. THE STRUCTURE OF COVERT INTELLIGENCE COLLECTION AND OPERATIONS

The only Congressional authorization for covert intelligence operations is contained in the Congressional Act of 1947, which created the entire national security system as well as the Central Intelligence Agency. The Act listed the primary functions of the CIA as advising the National Security Council on intelligence matters and correlating and evaluating intelligence related to national security. The fifth item listed under the functions of the CIA, under the direction of the National Security Council, was: "to perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct."

Based upon this very general Congressional authority, Presidents have authorized the CIA to engage in covert intelligence collection and covert operations. Over the years, a structure has grown up within the American government for devising such programs and for implementing them.

At the heart of the covert operations is the

CIA. Within the CIA such operations are centered in the "Plans Directorate," under the Deputy Director of the CIA for Plans (known as the DDP). Under the DDP there is an assistant in charge of each region of the world and operators dealing with particular countries or areas. These officials are drawn largely from a career service of covert operators within the CIA. This group is distinct from the career intelligence analysts, who serve only in Washington and only in the evaluation of intelligence material. The covert operators (who have a "cover" identification indicating that they work for the Department of Defense, the State Department, or some other agency or private organization) alternate between assignments in the CIA headquarters in Langley, Virginia, and assignments overseas.

American embassies have a separate section staffed by career covert intelligence operators from the CIA. The head of this unit, who is one of the senior officials of the embassy below the ambassador, is known as the CAS (apparently standing for Chief at Station). This unit maintains its own communications systems with Washington. In friendly countries, its members often operate as liaison with the local intelligence services, but in all cases they are available for the planning of covert intelligence collection and operations.

The only other resources known to be in the field to conduct covert intelligence operations are the military attachés attached to most American embassies. In addition, the service intelligence divisions operate intelligence-collection stations on land, and aboard ships and airplanes. Many of these operations are under the auspices of the National Security Agency, the group charged with the collecting of communications signals and their evaluation.

The National Security Council Act provided that other activities should be conducted only when the National Security Council shall direct them from time to time. In fact, procedures have grown up which provide for continuing authorization to the CIA to conduct covert operations and which put the initiative in the hands of the CIA to come forward with proposals. Beginning in the late 1950s, covert intelligence collection and operations have been approved by a committee chaired by the Special Assistant to the President for National Security Affairs. The existence of the committee and its membership have never been publicly announced, and its name (or rather the number by which it is designated) has changed from time to time. It is now apparently known as the Forty Committee, because its duties were redefined in National Security Decision Memorandum number 40.

In addition to the Assistant to the President for National Security Affairs, the members of the Forty Committee are the Deputy Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the Under Secretary of State for Political Affairs, and the Director of Central Intelligence. Each member is staffed by his own department or agency. For the Director of Central Intelligence, the staffing is done by his Deputy Director of Operations and Staff; for the Under Secretary of State, by a small group under an Assistant Director of the Bureau of Intelligence and Research in the Department of State; for the Chairman of the Joint Chiefs, by the Special Assistant to the Chairman for Counter Insurgency and Special Activities (SACSA). Until very recently, the Deputy Secretary of Defense was staffed simply by one of his military assistants, who relied primarily on the evaluations from the Joint Chiefs of Staff. It is possible that this function has more recently been taken over by the new Assistant Secretary of Defense for Intelligence. The Chairman of the Forty Committee, the President's Assistant for Na-

tional Security Affairs, has in the past been staffed simply by a liaison officer assigned by the CIA.

Proposals for covert intelligence collection or operations normally come from the section of the DDP charged with the relevant geographic area, and, after informal discussion among the staffs of the members of the Forty Committee, they are approved by the Committee itself. In some cases, the proposals come from other members of the committee.

Evaluation of the proposals is limited to the members of this Committee and the staffs designated for this purpose. Under normal procedures, a proposal for a covert operation in Latin America, for example, would not be cleared by the State Department desk officer dealing with that Latin American country or by the Deputy Assistant Secretary, or even, in some cases, the Assistant Secretary for Latin American Affairs. Likewise, it would not be cleared by the Regional Deputy Assistant Secretary in the Office of International Security Affairs in the Pentagon, or even by the Assistant Secretary or the military officers in the Joint Staff charged with planning and policy toward the particular Latin American country. Within the CIA itself, proposals for covert operations are normally not staffed by the Intelligence Branch of the CIA charged with collating and evaluating intelligence materials from all sources. In exceptional cases, particular people from these various organizations may be brought in to consult on a particular problem, but only at the sufferance of the officials formally involved.

Covert operations and intelligence-gathering is conducted, then, under a cloak of what we will call Super Secrecy. Executive Order 10501 specifically prohibited any classification other than the three categories it set out ("top secret," "secret," "confidential") and others authorized by law (such as those involving cryptology and atomic energy). Nevertheless, covert operations carry additional classification markings, and access to them depends on an additional set of clearances whose very existence is classified. Thus, information about them is limited very severely, even within the executive branch. Most of this paper is devoted to an analysis of the consequences of this Super Secrecy for executive-branch decision-making, for the American constitutional system, and for the conduct of American foreign policy.

## II. THE RANGE OF COVERT INTELLIGENCE COLLECTION AND OPERATIONS

Covert intelligence operations are of many different kinds and raise quite different issues. The best known concern covert intelligence-gathering. At the beginning of the cold war, the United States had planes engaged in short dashes into Soviet territory. Later, the U-2 flights overflew the territory and a special technology was developed for just this purpose. Stationed around the "Communist bloc," there are planes and ships gathering electronic intelligence—information on the planes flying through Soviet airspace, transcripts of the conversations of the pilots in them, characteristics of Soviet radars, information on Soviet space and missile firings, and so on. The *Pueblo*, captured off North Korean shores, was such a ship. More information comes from satellites encircling the globe and transmitting or dropping information to earth. From satellites, very good pictures of the ground can now be developed.

Covert intelligence gathering also involves the more traditional spy, although the relative effectiveness of spying has greatly decreased. Spies run the gamut from agents injected into a foreign territory, to foreigners recruited for this purpose, to paid informers in friendly or neutral governments, to sympathizers of many kinds and degrees.

The Soviet colonel Oleg Penkovsky is probably the best-known example of a spy.

Beyond covert intelligence-gathering lie the activities in support of political groups in a foreign country. Here a line is crossed between efforts to get information and efforts to manipulate. Political parties, labor unions, student groups, and military officers, etc., may be given funds, information, or other help in an effort to win influence over them and to advance shared aims. The first such operation was apparently the massive American intervention in the 1948 Italian election. Later, the United States apparently sought to buy votes in the French National Assembly to secure ratification of the European Defense Community Treaty.

Still greater involvement occurs when insurgent movements get covert support. Here, the United States takes a hand in active struggle. Examples include Indonesia in 1948, Tibet after 1949, Cuba under Batista, China immediately after the Communist revolution, and Katanga. In Iran, the United States sponsored a counter-coup to restore the Shah.

Still greater support is involved when the United States seeks to give covert aid to foreign military forces. Here we have assistance to the South Vietnamese against the North, to the secret army in Laos, and to the King of Jordan.

At the end of this spectrum lie major covert military operations. In 1949 the United States air-dropped hundreds of agents into Albania in an effort, much like that of the Bay of Pigs (another example), to overthrow the Albanian government. Tipped off by the Soviet spy Harold Philby, the Albanians had no trouble putting down the revolution.

Sometimes, covert operations involve domestic manipulations, and foreign operations abroad require domestic covers. Travel organizations, student organizations, businesses, foundations, and American labor unions may all be asked to help in providing a base for covert CIA operations. Alternately, they may be infiltrated—with few, if any, of their own higher-ups being aware of it.

Lastly, the United States government cannot credibly deny any involvement in dramatic attacks or incidents abroad, a coup in Cambodia or an Israeli attack on Lebanon promptly brings charges of CIA involvement.

## III. DISTORTIONS IN DECISION-MAKING

The Super Secrecy system under which decisions about covert operations are made increases the chances that such operations will be chosen over more desirable alternatives, reduces the effectiveness with which they are designed and carried out, distorts decision-making within the executive branch, and reduces the effectiveness of intelligence evaluation.

The Super Secrecy of covert operations increases the chances that the President will choose covert action rather than other, desirable options, which might be adopted given a free and open debate within the executive branch—and even more clearly if the Congress and the public were involved.

American Presidents face multiple audiences. Whatever the President does is seen not only by the foreign group against which he may be directing his action but also by leaders and active groups in other countries, by the Congress, and by the American public. One of the major attractions of covert operations is that with them one avoids the multiple-audience problem. If something is conducted in secret, then one can avoid the fight over means (as well as ends) which erupts when other audiences perceive an ongoing operation. For example, when President Nixon was asked in the summer of 1970 why the United States had been willing to send military forces to Vietnam to prevent the Communist take-over but was not willing to send American military forces to



Chile to prevent a Marxist government from coming into power, he replied that the United States could not send military forces to Chile without provoking an adverse political reaction in the rest of Latin America. Though he did not make it clear at the time, it was later revealed that the United States government had engaged in covert operations in Chile. These operations avoided the political outcry which would come from an overt step, such as the introduction of American forces.

As compared to alternatives, the necessary approval for covert operations is easier to obtain. The President himself can often usually authorize them without having to go to Congress for funds or to make a public justification. They also seem cheap and easy because they can usually be disavowed, if necessary. Indeed, the working definition of a covert operation appears to be that it is one which can be disavowed with impunity. As with many other aspects of covert operations of this kind, extreme optimism seems to accompany the evaluation of this factor. Thus, in the cases of both the U-2 and the Bay of Pigs, an explicit element of the calculation leading to the authorization of the plan was the belief that it could be disavowed with a cover story if it was discovered.

The mechanism of decision-making also tends to bias the system toward the choosing of covert options. When the United States government is faced with a problem, meetings are held to discuss the range of overt possibilities; they are weighed against each other in an adversary procedure that will permit critics of one proposal to be heard while the proponents of that proposal are present. Covert operations are not discussed at such meetings, but are considered separately at meetings from which advocates of other proposals, and critics of covert operations, are excluded. Indeed, participants in meetings considering overt options are often not aware that covert alternatives are being considered at other meetings. Those advocating covert operations can bring them up through the mechanism of the Forty Committee, and thus do not have to compete for the time and attention of top-level decisionmakers.

These same factors serve to reduce efficiency in the design and execution of covert operations. The Super Secrecy increases the probability that covert operations will be designed and implemented poorly and with little regard for the realities of the external world or for appropriate principles of American behavior. Many problems arise precisely because the circle of people involved in covert operations is kept so very small and is limited to people who tend to be sympathetic to such operations.

Other aspects of covert operations add to the general difficulties of getting any operation evaluated by the people responsible for devising it and later responsible for its execution. For example, the "play god" aspect of covert work—involving as it often does intervention in the internal affairs of other nations—tends to attract people who are likely to be insensitive to the difficulties of the work and to its implications for American constitutional procedures. Moreover, the cabalism—the close working relationship between the small number of people involved—substantially reduces the chance that any insider will object to somebody else's favorite scheme. Officials involved from other agencies are often simply on loan from the CIA or intimately connected with CIA operations.

As in all policy areas, the responsible officials have an interest in keeping the number of participants down and to exclude those who are likely to be critics. In covert intelligence operations, a special tool facilitates such exclusion: the special clearances required for such operations. A "top secret" clearance is not sufficient; one must get spe-

cial clearances the existence of which are not even known to officials who do not have such clearances. Moreover, authority to grant them is in the hands of the officials who manage the programs, who can use this tool to exclude anyone they fear might be skeptical or critical.

Normally, an official observing an ongoing policy which he sees as a threat to his organization's interests, or to the national security interest as he defines it, would attempt to fight his way into the process. He would argue that he has a special expertise to contribute or that the interests of his organization are involved. In covert operations, Super Secrecy makes it extremely difficult for this to occur.

First of all, the official usually does not know that the activities are under consideration or being implemented. The existence of the special clearances makes it difficult to assert a right to be involved, since one is asserting the need for a clearance whose existence one is not supposed to know and which is supposedly kept to a small number of people. Thus, someone attempting to fight his way into the evaluation of a covert operation faces not only the normal difficulties of getting into a new policy arena but special problems of appearing to be jeopardizing security requirements.

As a result, a person who finally does get cleared for a particular operation is likely to feel that he has been admitted on the sufferance of the planners. He knows he will continue to be involved only if he accepts the basic principles involved and presents his criticism on the edges of the operation. Someone who is skeptical about covert operations in general, or covert operations in a particular area, is likely not to get the necessary clearances. If he does, he may feel that he must mute his views or find himself isolated and, ultimately, have his clearance withdrawn.

With the circle of those "in the know" kept so small, those in it tend to discount the views of other government officials who are not aware of the details of covert operations. For example, expert estimates of the unlikelihood of a successful anti-Castro operation in Cuba in 1961 were discounted by the officials who knew about the Bay of Pigs operation. These officials knew they were the only ones receiving all the reports from our covert operations in Cuba; intelligence analysts in the CIA and State Department were discounted because they had not received some of the reports from covert agents operating within Cuba.

The process by which proposals for covert operations move up through the narrow group of those with necessary clearance reduces the likelihood that the senior officials on the Forty Committee will examine them critically. Proposals that come before the Committee are unanimous because of the close working relationships of the staffs involved, and they tend to be rubber-stamped by the committee. Presumably, they are also rubber-stamped by the President when they are brought to his attention. The lack of vigorous dissent, so common with other proposals of a controversial nature, leads to routine approval.

The inability of top officials to maintain control is particularly acute when an operation is very large. For then the danger of adverse political consequences exists if the operation is halted after it is well on its way. In the case of the Bay of Pigs, President Kennedy was confronted with statements from Allen Dulles that if the operation were to be canceled, Cuban refugees who had been recruited would talk about it and cause political problems because of the intense anti-Castro feeling then rampant in the United States.

One form of monitoring is often entirely absent in the case of covert activities. The press provides one critical aspect of the

monitoring system over the President and other top officials. This does not occur with a covert operation unless it reaches such proportions that the press in the field begins to learn of it. (Paradoxically, in such cases the press may serve to alert other parts of the United States government to what is going on. This appears to have been the case in Laos through the 1960s, where covert activities came to the attention of many government officials through press reports from Laos.)

Super Secrecy also reduces the possibility of effective monitoring within the American government. The acknowledged need for flexibility in covert operations often makes it easy to justify discretionary authority for officials in the field to implement an approved plan. Ambassadors who sometimes provide effective monitoring or control often do not know, and do not want to know, about CIA operations in their countries. Moreover, the CIA controls its own money, people, and communications channels to Washington, often enabling it to move without normal internal executive-branch monitoring, bypassing skeptics who might otherwise try to persuade the President that it was an error and should be abandoned.

Super Secrecy of decision-making and execution of covert operations also casts a shadow over executive-branch decision-making in general on national security matters. Creating a special class of those with a "need to know" for covert operations tends to give people a sense that on all matters they are better informed than others.

Moreover, within the government, lying becomes an accepted habit. In order to protect the existence of additional clearances and of covert operations, officials with access to information about these things must routinely deceive other officials. This lying breeds cynicism and contempt for those who are lied to, and this must influence the entire pattern of decision-making.

The most obvious demonstration of how Super Secrecy distorts executive-branch decision-making is in the CIA itself. The CIA was envisioned by President Truman, who called for its creation, and by the Congress that authorized it, primarily if not exclusively as an intelligence-evaluation organization. Prior to its creation, President Truman received intelligence reports from each of the armed services and from the State Department. He felt the need for a single agency which would collate and evaluate these reports and which would do so without the bias that an operating agency had in favor of its own programs. Thus, Truman wanted a professional and independent intelligence capability.

This conception of the CIA's role differs markedly from reality because of covert intelligence operations. The CIA has always been dominated by officials whose primary concern has been covert operations rather than intelligence or evaluation. The only career officials to be named heads of the CIA—Allen Dulles, Richard Helms, and William Colby—rose through the covert side of the agency, and Helms and Colby were former DDP's before becoming Directors. The dominance of covert operations within the CIA has diminished the quality of personnel on the intelligence side. The officials who work on intelligence evaluation recognize that they are not operating in a totally hospitable environment and are unlikely to rise to the top.

Moreover, because of its involvement in operations, the CIA is not the neutral intelligence-evaluation organ that President Truman and others envisioned. It has a policy ax to grind concerning its covert operations. The Director of Central Intelligence is reluctant to put out intelligence reports that contradict a view that the CIA is pressing in the Forty Committee or in other covert intelligence channels. Super Secrecy of covert operations also reduces the quality of its

Intelligence over the fact that the evaluators are often uninformed of covert operations and of matters that would enhance their ability to make sensible intelligence inputs.

Thus, the covert operations staff dominating the CIA weakens it in its primary function of providing objective intelligence evaluation of ongoing problems. The Vietnam war illustrates this well. The Pentagon Papers reveal that intelligence analysts in the CIA frequently produced much more sensible estimates of the situation in Vietnam than other parts of the intelligence community did. What the Pentagon Papers do not indicate, because they did not draw on the files of American covert operations, is that the DDP was as wrong on Vietnam as any other part of the government. The CIA was heavily involved in covert operations in Vietnam, including the training and arming of ethnic minorities. The CIA operators were optimistic about the success of their programs, and the great weight of the CIA effort within the government was to defend these programs rather than to push the consequences of the pessimistic intelligence evaluations.

#### IV. HOW COVERT OPERATIONS DISTORT THE AMERICAN CONSTITUTIONAL SYSTEM

The American constitutional system is fundamentally distorted by secrecy—although the different branches of government are affected in different ways.

The executive branch thrives on secrecy because secrecy frees it from Congressional, judicial, and public oversight. But the Congress suffers from secrecy because its power is based on the ability to expose, to rally public opinion, to maintain a dialogue between constituents and elected officials and with the press. When a Congressman is told that CIA operations are Super Secret, self-interest makes him prefer not to know anything about it. These secret operations are dangerous to him—he may be accused of having breached secrecy if the matter gets out, yet the information is of no political use to him unless it can be made public. Only a sense of duty can sustain his willingness to participate in hearings on such matters. Indeed, in the House of Representatives, the CIA subcommittee of the Appropriations Subcommittee has a membership that is secret. The Congressmen do not want it known who they are!

The Congressmen risk being asked whether they knew of covert operations. In 1971 Senators John Stennis and Allen Ellender—the chairmen of the Armed Services and Appropriations committees, as well as of their CIA oversight subcommittees—said that they knew nothing about the CIA-financed war in Laos, surely the CIA's biggest operation. It is hard to know whether to believe these denials, which would suggest enormous laxity in oversight.

Covert operations are especially difficult for Congressmen to come to grips with because they involve, or seem to involve, men in the field—"our boys." Every effort has to be made to protect these men and to bring them back if caught. Thus the flag is wrapped around the personnel, if not the funds, that go into covert operations.

So Super Secrecy is at the heart of Congress' problem in fulfilling its function of oversight of CIA operations. Even the authorization for CIA activities was promptly distorted in secrecy. The National Security Act authorized the CIA to: "perform for the benefit of the existing intelligence agencies such additional services of common concern as the National Security Council determines can be more effectively accomplished centrally; perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct" (italics added). But secret directives promptly expanded these functions. Overthrowing governments, secret wars, assassinations, and fixing elec-

tions are not done "for the benefit of the existing intelligence agencies," nor are they duties "related to intelligence." It is entirely possible that a court might rule such actions unauthorized by statute. Yet within the executive branch, secret directives authorize special operations of all kinds provided they are small enough to be plausibly deniable. Unfortunately, these directives do not cover the impossible-to-deny operations: U-2 flights, Bay of Pigs, the Iranian coup, the Laotian war, etc.

A traditional method of Congressional control is through the power of the purse—the control of funding. The Constitution explicitly supports this power of Congress when it asserts in Article I, Section 9, Clause 7, that: "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time" (italics added). CIA expenditures are in violation of this constitutional clause, since no accounting whatsoever is made public. Indeed, the burial of CIA expenditures in the accounts of other departments puts the latter accounts in violation of law. They cease to be accurate.

Complete control of funding for covert operations is evidently delegated only to subcommittees of the Armed Services and Appropriations committees. This, Senator Stuart Symington would not be permitted to discuss CIA appropriations, although he is on the Appropriations Committee and the CIA oversight subcommittee of Armed Services, because he is not one of the five senior members who make up the CIA oversight subcommittee of appropriations. The full committees do not vote on these matters, nor are they discussed on the floor of the Senate sessions on the CIA.

The failure of Congress to approve covert operations hampers its activities in other ways as well. Congressmen cannot properly assess the implications of many foreign events unless they understand the extent to which these events were shaped by covert American operations. The Gulf of Tonkin affair may have been encouraged by ongoing covert operations in the Gulf, but ignorant of these activities, Congressmen considered any attack on U.S. ships to be "unprovoked."

Similarly, interpretations of the true desires of Chileans may have been based on election results in Chile which in fact were manipulated by covert American campaign contributions. The Laotians may desire to avoid fighting, but a secret war financed by a covert operation may persuade Congressmen that Laotians want to continue the struggle.

Today covert operations are what most require the Super Secrecy of the CIA. Electronic intelligence-gathering does not require it, nor does intelligence assessment. It is the potentially explosive disclosure of interference in the internal affairs of other countries that does.

CIA employees must take a special oath to maintain CIA secrets. By restricting them from discussing these matters with their Congressman or Senators, the oaths interfere with our political system. Moreover, they constitute a special security system, unauthorized—on top of a variety of other unauthorized systems ("sensitive," etc.)

Super Secrecy has led to the widespread use, inside the CIA, of lie detectors. This may be a handy method for detecting double agents and for other use in covert operations. But their use spreads to all CIA employees, to other branches of government, and into the society at large. The funds available to the CIA make it possible for it to pioneer in a technology that undermines traditional judicial and ethical processes.

Super Secrecy as required by covert operations threatens the freedom of the press. For fifteen days, in the first prior restraint

order in the history of the country against a daily newspaper, The Washington Post and The New York Times and other papers were restrained from publication of the Pentagon Papers. Part of the government's objection to publication was its fear of revealing covert operations and intelligence collection. And the only permanent injunction against free speech in the history of the United States has been issued against Victor Marchetti, a former CIA official—based partly upon his secrecy oath and partly on the need to keep secret the covert operations of which he might have knowledge.

Covert operations have led to Presidential requests to the press not to publish articles. In the case of the Bay of Pigs, President Kennedy urged *The New York Times* to do just that. When the covert operations are based in the United States, they can also interfere with individual rights. An effort to hide the fact that Tibetans were being trained in Colorado mountains led armed men to surround, and hold at gunpoint, a number of civilians who happened to witness their departure. And then the government apparently asked *The New York Times* not to publish the story.

Covert operations tend to distort the perceptions of foreign policy held not only by Congressmen but also by scholars and, in turn, the public. The entire image of U.S.-Soviet relations during the cold war would have been significantly different if U.S. penetrations of Soviet airspace had been made known. It would have shown that not all the Russians' fear of encirclement was "paranoia."

It is possible, with covert operations, to induce reactions from other nations which are self-fulfilling. Castro's anti-American attitude can be shaped by American sabotage of which he is cognizant but the American public is not. The Chinese knew that Downey and Fecteau were CIA agents; the American public did not. The North Vietnamese gauge our willingness to stay in Indochina by assessing, in part, the commitment shown through covert operations; the American public can not. In these matters, Super Secrecy is effectively directed only at the American public. The "enemy" may understand only too well what is happening, and sophisticated observers in third countries may also. But the American public is the last to know.

Government credibility suffers not only from acts of omission but also from the necessity to lie, to cover up. It was a sensation when President Eisenhower lied to cover up the U-2 incident. The extensive lies covering up the Bay of Pigs included Ambassador Adlai Stevenson's unwittingly untrue assertions in the U.N. Security Council. (Such acts are less sensational now because government credibility has sunk so much lower.) Even Presidential candidates are forced to lie. During the Kennedy-Nixon debates in 1960, both candidates were forced to wrestle with their secret knowledge of plans for the invasion of Cuba. What to say about Cuban policy in the face of this knowledge?

The Watergate affair amply documents the corruption of the political process by gradations of the CIA covert operations branch. Some of the CIA operatives hired at the lower level of the caper thought they were still working for the Agency. A more sophisticated operative is said to have gotten help in locating a suitable locksmith from a CIA roster. Throughout, the skills and techniques of CIA operators were ready and waiting. And those at higher levels directing the operatives had seen *Mission Impossible* and knew, or thought they knew, how the game was played.

The public's response to Watergate was to question why anyone should take such risks for so little. The answer probably lies in the fact that the administration had "institutionalized" dirty tricks. The same people

had performed other "mission impossible" assignments, including breaking into a safe in Las Vegas, into Daniel Ellsberg's psychiatrist's office in Los Angeles. The resistance to covert operations was lowered; those who otherwise might have warned of the danger were, to that extent, silenced.

Watergate also reveals the dangers of permitting "hardened" operatives to work freely in American society. Ordinarily, only a criminal would be available to do these break-ins. The criminal element would have few contacts with a normal administration and would lack the sophistication and reliability. But a gang of Cubans led by a covert master spy like Howard Hunt is another matter. They can inspire confidence and encourage assignments from an administration.

The use of private institutions for covert operations tends to bring them all under suspicion. This is what happened when it became known that the CIA had financed the National Student Association and about 250 front organizations and conduits. President Johnson appointed a panel headed by Under Secretary of State Nicholas Katzenbach to review the ground rules for such operations. It concluded.

1. It should be the policy of the United States Government that no Federal agency shall provide any covert financial assistance or support, direct or indirect, to any of the nation's educational or private voluntary organizations.

2. The Government should promptly develop and establish a public-private mechanism to provide public funds openly for overseas activities or organizations which are adjudged deserving, in the national interest, of public support.

The first resolution was adopted. But it left a number of loopholes. In the first place, organizations that seemed to be "private voluntary" might not be. They could be quietly organized as "for profit" and few would know. Alternatively, philanthropists might be enriched, perhaps through stock-market operations, and they would then endow organizations with covert uses. Meanwhile, private businesses could continue to be funded by CIA.

The second recommendation does not seem to have been adopted. The infiltration of private organizations forces people to defend their "covert stories" and lose their integrity. Friends become unsure whether they can believe each other. Persons wonder whether they should accept funds from this foundation or that. To this day, legitimate "Stern Foundations" are confused with the conduit "Stern Foundation," which the CIA used in 1966. The Asia Society and the Asia Foundation have both suffered from the decision of the latter to accept CIA funds. Suspicion spreads.

#### V. DISTORTIONS OF AMERICAN FOREIGN POLICY

When foreign countries are aware of U.S. covert operations and the American public is not, the possibility arises of having our government blackmailed by foreign governments. For example, they may insist on foreign aid they might not otherwise receive in return for participating in our covert activities. They may seek ransom for captured pilots—as Indonesia did in a case much like that of Gary Powers. They may hold prisoners until the United States admits they were CIA agents—apparently China's approach. And since covert operations, unlike electronic intelligence, require assets in place, the sensitive problems of purchasing and maintaining such assets can increase the risk of blackmail.

But even when pressure is not applied, CIA covert operations can lead to greater recognition of or commitment to a government. A U-2 base at Peshawar can buttress a particular regime in Pakistan. A country that gives us a base for invading Cuba, as Guatemala

did, can discover that we are committed to maintaining stability there, if only to protect the base.

Because these commitments are undertaken indirectly and without full debate, it is difficult for anyone to be sure where they will lead. Laos is a good example. The commitment and involvement may outrun the conflict in Vietnam which reformed them. Meanwhile, the secret war may decimate the population and otherwise dramatically change the original conditions of conflict.

For businesses abroad, the charge of their possible involvement with CIA cannot be answered. The Johnson administration took the view that one could not legislate "private morality" and that, in any case, it was not improper for businesses to cooperate with a government agency in securing information. But here, as elsewhere, the securing of information is something of a "cover concept" for covert operations. While it might not be immoral, it is poor policy to permit a government agency like the CIA to get involved with businesses around the world. In the long run, American business relations will suffer and the inevitable charges of government interference wherever American business rears its head do our foreign policy no good.

The ITT case shows how successive levels of degeneration in function are revealed when dirty tricks are institutionalized. First, the NSC is requested to order covert operations on an occasional basis. In time, the CIA is proposing these operations to a passive NSC. Then, in turn, the businesses through which the CIA operates, as in the ITT case, make proposals to the CIA and try to use the Agency for its own ends. Thus work expands to fill the covert possibilities available. Secrecy debases control.

The credibility, efficiency, and authority of State Department officials are undermined by the presence of covert CIA operatives. The CIA has better communications, better logistics, larger and more available sources of secret money, and greater security of communications. Under these circumstances, its authority in the field can hardly be matched. If there are CIA operatives around, why should sources of information talk to diplomats? The reported closeness of the late President Nasser to American CIA representatives rather than to Foreign Service representatives is a case in point. Nasser may have thought that the real power lay with the CIA.

CIA operatives undermine the effectiveness of the Foreign Service not only by competing with it but by implicitly smearing it. The legitimate diplomatic operations abroad cannot prove that they are legitimate. While some sources are attracted to the CIA, others are repelled. Members of diplomatic missions are suspected of being CIA agents much as American civilians might wonder if a Soviet diplomat is really a KGB agent.

The internal power balance in a foreign country can be distorted by the alliance of the CIA with certain elements in it rather than with others. Ramon Magsaysay in the Philippines may have risen to power on the basis of help or information provided him by the CIA. Others who do not cooperate find themselves disadvantaged, relatively, even if no action is taken against them. From the CIA's point of view, small services can be of great significance—a few weapons, money, some investment advice, dirt on other members of the government, and so on.

Part of the purpose of CIA political operations is to gain just such influence as these operations make possible. But even when these "benefits" are not intended, CIA covert operations can still pervert a foreign government's structure. It is hard for a CIA operative to be passive. Some sources will be cooperating with him; others will not. Gradually, even without direct effort, the CIA—and the United States—may become aligned with and encouraging X rather than Y.

Covert operations seem to encourage rebellions or revolutions without hope. In Laos, teen-agers were encouraged to fight against the North Vietnamese troops until they were destroyed. In Tibet, guerrillas fought against the Chinese in hopeless uprisings. In the Bay of Pigs, miscalculations only somewhat less obvious were made. The dynamic of covert activities seems to have a logic that can produce violence which, on later reflection, is not worth it.

#### VI. CONCLUSIONS AND RECOMMENDATIONS

The very existence, much less the mode of operation, of the CIA's Directorate of Plans is a legacy of the World War II Office of Strategic Services (OSS). In the hot war of the OSS, any and all tricks were considered consonant with the world-wide struggle against the Axis. Many imaginative and creative persons were drawn into its operations. After World War II, the OSS was institutionalized in the CIA. Many of the OSS operatives left, but some stayed. The pattern of imaginative involvement in covert operations remained. The cold war was seen, as late as the early 1960s, as a "long twilight struggle"; CIA covert operations fell neatly into that twilight—a gray area, whose propriety was buried in secrecy.

Today, with the cold war waning, the CIA is bidding for permanent institutionalization of its structure and role. Richard Helms argued that America's role as a "great power" demands a CIA even if the cold war does not. Thus what began in a hot war and grew in a cold war may come to base its right to exist simply on the permanent fact of American power.

Meanwhile, the effectiveness of the CIA's covert operations in the industrialized world has vastly diminished. In Europe, the instability of the post-World War II period is over. We no longer need to bribe Italian dockworkers to unload our goods. In the Communist industrialized world (and in China), CIA covert operations are of little effect, even if desirable. And electronic intelligence is providing more than we want to know about most subjects of interest.

As a result, the institutionalization of covert operations is certain to lead to its influence being applied to the Third World—an area with which we are not at war, and from which we are not in danger. The governments are penetrable. The agents have room for maneuver. But there is little work that needs to be done.

In the Third World, nationalism is a proven force against the rapid Communist expansion once feared. Soviet, Chinese, and American interference in Third World states tends only to produce resistance to a large power's further involvement. The problem ceases to be one of fighting fire with fire. It becomes one of giving competitors enough rope to hang themselves. No situation better illustrates these principles than Egypt. Unusual needs in Egypt, and unusual Soviet willingness to help, has nevertheless produced a history of strained relations between the Egyptians and the Soviets and a drain on Soviet resources.

The time has come for America to change its strategy from covert intervention to non-intervention. When there is no emergency, it should be an easy choice to stand for principle. In the long battle for respect and support in the Third World, principles and integrity will be the most important force. The short-run opportunist approach embodied in the CIA's Directorate of Plans sells the long run short.

Furthermore, it will be increasingly difficult to keep covert operations secret. As each operation is "blown," our reputation will suffer; we live in an era that is increasingly impatient with such manipulations. Each covert operation is a time bomb waiting to go off.

Covert operations diminish the flexibility

of American foreign policy when it is most required, in a stage of disengagement. They tend to link us to established forces and to encourage the existing tendency of American policy to resist the popular aspirations in underdeveloped countries.

Especially important, covert operations pose a serious threat to democracy at home. James Madison wrote to Thomas Jefferson on May 13, 1798: "Perhaps it is a universal truth that the loss of liberty at home is to be charged to provisions against danger, real or pretended, from abroad." The effort to suppress information about covert operations abroad has already damaged freedom of the press and freedom of speech in America. The Pentagon Papers case and the Marchetti case may be precedents for still more ominous incursions on the First Amendment. Covert interference abroad is interference with freedom at home.

Finally, the greatest Presidential scandal of modern times has arisen from the injection of covert CIA methods, used by CIA graduates, into American society. No greater signal can be given of the danger of these methods to the highest interests of Americans.

We believe, therefore, that it is time for a drastic overhauling of the Super Secrecy system surrounding the planning and conduct of covert intelligence collection and covert operations. We recommend that certain operations and structures be abolished and that the secrecy surrounding others be eliminated.

The United States should continue to conduct operations involving the collection of intelligence materials by technical means, but not in any greater secrecy than other government activities. Implementation of this purpose would mean the elimination of the special classifications surrounding these programs and a public acknowledgement of their existence.

In this category we would put the various satellite collection programs for the gathering of data by photographic and other means, as well as ships and planes carrying electronic equipment. The government should carefully review all such programs to determine which ones in fact produce information of significant importance to the United States. An assessment should be also made of which programs are provocative—running high risks of penetrating the air spaces or territorial waters of other countries. The United States should make a public statement in general terms about the activities to be continued. The budgets for such programs should be publicly identified and be a regular part of the budget of the Defense Department. Officials of the Defense Department should be required to justify them as they justify all other programs. The organizations that operate and conduct them and the responsible officials for them should be publicly identified and be made a matter of public record.

There is, of course, a case for keeping some aspects of a program secret. For example, the technology of the most advanced cameras in satellites might justify continued secrecy. However, such secrecy should be within the context of an ongoing classification system and should be treated within the government like other classified material.

We do not believe that electronic intelligence-collection programs, if any, which penetrate the air spaces or territorial waters of other countries (or run a high risk of such penetration) should be continued.

Our proposals regarding covert operations are more drastic. We believe that the United States no longer needs a large establishment whose function is to conduct covert operations and gather intelligence covertly. Accordingly, the entire covert-operations section of the CIA should be dismantled. The CIA should become what it was originally meant to be—an intelligence evaluation and coordinating organization with no opera-

tional responsibilities. This would mean eliminating the entire Plans division of the CIA and the career service of covert operators. It would mean also that the CIA would no longer have clandestine agents in overseas embassies. Their clandestine contacts with government officials and opposition groups abroad should be taken over, to the extent necessary, by State Department officials and military attaches.

Adoption of this proposal would permit the CIA to emerge from the shadows. Its functions would be discussed publicly. Its budget could be publicly identified and its functions largely explained in a public defense of its budget and operations. The intelligence-analysis branch of the CIA would become the dominant career service, with intelligence analysts rising to top positions, including that of Director.

The gains from these proposals would include the elimination of the costs to executive-branch decision-making, American society, and to American foreign policy discussed above. The adverse consequences would be minimal. If the United States government decided to conduct a limited covert operation—for example, obtaining information from a spy within a potentially hostile government—it could be carried out either by the Military attachés or by State Department officials. But there would no longer be a group whose *raison d'être* was such operations, a group constantly looking for ways to employ covert means as an instrument of American foreign policy.

#### VII. DISCUSSION

Mr. LOWENFIELD. I am not quite sure why I was asked to be a commentator here. I was told by the organizers that they wanted somebody who had government experience in foreign affairs. As I read the paper and listened to Mr. Halperin and Mr. Stone, I realized what they meant. I was one of those guys who had all the appropriate clearances and worked on some things that I thought was critical and important, and for the most part I did not know about all those other meetings, the Super Secret meetings.

It did come across to me once. I remember in August 1964 I was Acting Deputy Legal Adviser of the State Department. Bill Bundy called up and said, "I want a resolution authorizing the President to act in Southeast Asia." It turned out that my boss, the Acting Legal Adviser, was on leave—it was the middle of August—and I was the one who picked up the phone. I said, "What happened?" He said, "Never mind; just write a resolution."

It was fairly easy to write the resolution. As any good lawyer, I had a form book. We had the Cuba resolution, the Formosa resolution, the Lebanon resolution, all contained in a nice little book called *Legislation on Foreign Affairs*. It was not too hard to dictate a Vietnam resolution. But I said, "Tell me what happened, so I can put in the appropriate 'whereas' clauses." The answer was, "You are not authorized," and I never did find out.

A few days later my boss came back. He had not yet been confirmed. There was some doubt whether he could see the reports from Tonkin Gulf. I think ultimately he did briefly, but only looking over somebody's shoulder. So I knew there was something going on in Tonkin Gulf, and also that there was an attempt to limit access to the information. Whether the news was actually managed, I don't know.

I am sort of depressed by Mr. Halperin's and Mr. Stone's essay. I thought one of the excitements of my job as a government official was that I was really in on a lot of important decisions. Since then, as a teacher and scholar, I have tried to write about them. Now I have to consider that maybe I was just misinformed.

I think it may well be true that espionage is a good thing, a stabilizing influence, a

force for peace. Take, for example, Soviet maneuvers in East Germany and Czechoslovakia in 1968. If you had no idea what they were doing, you thought maybe they were going to march to the Rhine or the English Channel, and maybe you got your contingency plan for the Strategic Air Command out of Omaha ready. If, on the other hand, you knew what they were doing, that they were only worried about Dubcek, and you had already decided you could not really protect Dubcek, you calm down. I think there is a lot of that in both directions. So it may well be that a certain level of espionage is a stabilizing rather than a destabilizing force.

Where does espionage tilt over into operations? That is very hard to say. Take, for example, the U-2—was that an operation or was it information-gathering? It is a bit of both. I am not sure that you can really make the separation that Messrs. Stone and Halperin suggest.

Mr. RANSOM. I am an academic observer of this subject. The only time I ever worked with the government was quite a while back, when I joined the U.S. forces to stamp out fascism—which I see returning, I am afraid, in a different uniform. I find the Halperin-Stone essay is a very original analysis, and I think I have read everything else on the subject in English dealing with how Super Secrecy and Super Secret agencies can subvert our policy-making system.

I want to say a word about definitions, because while this may seem elementary and pedantic, I think we have all discovered recently that definitions are important. At the highest levels of our government we have discovered with Watergate that there are people who don't know the difference between war and politics.

Intelligence means evaluated information. Espionage is one of the several techniques for gathering information and is by definition illegal. Counterintelligence is a police and security function. Covert or clandestine political operations are activities having no direct relation to intelligence or espionage functions, although they produce some and use some intelligence. That is all very simple, and I restate it because I feel that at the highest levels of government these distinctions are thoroughly confused.

What did Congress intend when it set up the Central Intelligence Agency? My reading of the legislative history is that Congress did not intend to create a clandestine or covert political action organization. We need further research into the legislative history—and scholarly research on this subject encounters many obstacles—but I am convinced from my research to date that Congress did not intend to authorize anything but a Central Intelligence Agency whose functions were to be related to intelligence, that is, *information*.

If Congress did not intend covert political action, how did it come about? I think it was an American reaction to Stalin and communism. The covert political activities of the last twenty-five years have been justified in the same way that we justify activities in time of war generally. We have been in a gray zone between a war declared by Congress and what has in fact been a wartime condition—a cold war since 1947.

The first big covert operation was the Italian election of 1948. Our government felt that we had to make that election come out right. Ever since then, at least until 1967, we have secretly intervened in a major way in elections all over the world. I was startled to see in *The New York Times* a few days ago that we subsidized one wing of the Italian Christian Democratic party to the tune of three million dollars a year between the early 1950s and 1967. I had no idea that as an American taxpayer I was contributing to a particular wing of an Italian political party. I think most of you here didn't know that.



of "Watergates" around the globe. It has waged secret political warfare, attempted to give history a push here and there and make things happen in what our government considers its favor. As the cold war intensified after Korea, covert operations were stepped up, and came to include the secret subsidy of U.S. domestic organizations. You might say, as the cold war stepped up, covert operations came to be used internally and included, as Messrs. Halperin and Stone have indicated, the secret CIA subsidy of an estimated two hundred and twenty-five domestic organizations between the early 1950s and 1967. The most famous, of course, was the National Students Association, whose budget at one time was supported ninety per cent by a secret subsidy from the CIA.

These widespread domestic subsidies were perhaps the second greatest mistake in the history of the CIA. I would say the program of subsidizing domestic organizations was clearly against the law. What, then, was the greatest mistake? The greatest mistake was to allow CIA personnel and equipment to be used for doubly illegal acts at home—illegal because burglary is illegal, and illegal because Congress had very explicitly prohibited the use of the Central Intelligence Agency for internal purposes.

In 1971, the then Director of the Central Intelligence, Richard Helms, gave a rare public speech defending the CIA. He raised the problem of the compatibility of its activity with American democracy. He said explicitly and clearly, "We do not target on American citizens." Was he telling the truth? Because I thought he was telling the truth, I found something else he said even more shocking. "The nation must to a degree take it on faith we who lead the CIA are honorable men, devoted to the nation's services." I don't think that any government officials at any level should ask the American people to take it on faith that they are honorable men, because we, I hope, are a government of laws and not of men.

I recommend a thorough audit of all CIA activities, foreign and domestic, by a Hoover Commission-type study, independent of the government. It is an ordinary suggestion, but I remind you that not since 1955 has such a study been made. There have been dozens of studies of the CIA's problems by secret government committees; the government was investigating itself. In 1955, the Hoover Commission task force on intelligence activities, a very Establishment-oriented group, called public attention to the dangers that we now see have become real. We need another such study. I believe such a study should go forward separate and apart from the CIA involvement in the Watergate scandal. Watergate is going to be thoroughly investigated, but there is a much, much larger question: the policy, organization and controls of the intelligence system.

I predict such a study will recommend what Messrs. Stone and Halperin have recommended: that the CIA become again an intelligence agency, as Congress intended, and that covert operations be abolished. If we need a reserve force for covert operations, then we will create and use it. I don't rule out all overseas use of covert operations. But such covert activity is an act of war, so let's call it war and get the CIA out of it.

I predict that such a study will also call, as the Hoover Commission did in 1955, for a joint Congressional committee on intelligence activities. I realize that this is a close question. The Congressional Joint Atomic Energy Committee has not worked the way we wanted it to work. But Congress needs a sustained surveillance group for the intelligence community. Congress gave far too much away in 1947 and 1949. Congress did give the CIA the right to spend funds

intelligence on the right to a Senator Fulbright and others. "Sorry, Senator, I cannot tell you that, because Congress has given me the discretion to decide whether I should tell you this or that." Now that the CIA has been disgraced—disgraced to some extent by Watergate in the public eye—I think we have an opportunity to organize for a new Hoover Commission-type study. In 1946 Harry Truman, as President, told his Budget Director, and these are Truman's words, "I am very much against building up an American Gestapo." Tragically, Watergate demonstrated that Truman's fears were not unfounded.

Mr. KRONFELD. I think we have to take a rather jaundiced view of Congressional oversight in this area. When something comes up before the Congress, the Congressmen often don't know what they are voting on. They go by what the committee leadership says; it gets down to a very few people. The Armed Services Committee does have an oversight role now, but the oversight is done by the staff. A good example of the quality of the oversight is suggested by the fact that the just-retired chief counsel of the House Armed Services Committee was also a major general in the Marine Reserves. Most of the senior staff on the Armed Services Committee treat the junior dissident Senators with a certain disdain. They don't talk to them. They don't give them information. These junior members and some middle-rank members don't have a chance. They can't get through to the chairman, they can't get through to the staff, they have to rely on outside people.

Mr. LEWIS. I am skeptical of the suggestion that covert operations could continue safely if they were scrutinized by an effective Congressional committee. I don't believe that a joint Congressional committee is ever going to deal effectively with these matters. It won't be in on the operation early enough. It won't have the expertise. Even supposing a Senator thought landing people in Cuba was a bad idea, by the time he found out about it everybody would be all cranked up on the operation and would say, Senator, it is too late to change. It is just not a realistic notion that you can control such operations. Their whole nature is that you cannot control them, and that is the danger.

Mr. LOWENFELD. It may be possible to build in some notion of regular accountability. I am skeptical too, but it may be worth the effort.

One footnote to what Professor Ransom said about the historical record. I am more and more skeptical of the historical record. I am skeptical of the notion that in 1947 Congress did not intend the Central Intelligence Agency to do anything but evaluate. I realize that is what the statute says and that is what the formal record says, but that's just the point.

Mr. DORSEN. Are you suggesting there were separate meetings in the Congress with a record that might not have been made public?

Mr. LOWENFELD. Sure.

Mr. CALLEN. I wish to comment on intelligence-gathering, as distinct from covert operations. I worked at the National Security Agency for eight years, sometimes helping among other things to develop analytical interception and surveillance apparatus. I agree with Professor Lowenfeld that a great deal of what goes on, in NSA at least, is very much in the interests of peace, because you don't really trust what any other government says. You really have much more confidence in what you intercept, in what they are saying among themselves.

Much of what used to be done by people is now done by satellites. You can ring the Soviet Union with interception apparatus, but that only gets at long-range communications. Microwave communications, which

can be intercepted by satellites high in the air and they swoop down low over the Soviet Union and gather stuff. So satellites play a major role in the interception of foreign communication.

The thing that interested me for all those years was how little of the surveillance technology actually diffused into our own economy, though some of it was developed right here in this country. This was, I think, because there was no force for such diffusion. Now, there is such a force—the fight against crime. The Law Enforcement Assistance Administration [LEAA] poses a very definite threat to the right of privacy and to civil liberties by funding the use of this technology in domestic affairs. For example, in Washington, we fought very hard and successfully against a group which was going to receive money from LEAA. It was going to have some \$150,000 worth of equipment for an electronic surveillance van to use, they said, for fighting organized crime and heavy drug traffic. We are going to see more and more of this across the United States, funded by LEAA.

Mr. SCHWARTZ. I want to make two brief points. The first point is with regard to Congressional oversight. I think few people really feel Congressional oversight is adequate. All too often it turns into the primary dictionary meaning of the term. Yet we must use the tools we have. This is, in our constitutional governmental structure, the only real instrument we have for controlling executive action.

Secondly, as one who is not involved in this area at all, my sympathies are with the suggestions made in the paper and discussion. This bloated, elephantine apparatus that has grown up completely distorts the constitutional center of gravity. Of course, it ought to be pruned, refined, improved, and maybe abolished, and yet one has a lingering doubt. You all remember Secretary Stimson's famous remark when he dismantled this kind of operation, at what now seems a very elementary if not infantile level: "Gentlemen don't open other people's mail," he said. But what happens if, in the world, you are not dealing with gentlemen, and all other governments have this kind of thing?

Mr. HALPERN. I want to distinguish between two things. Mr. Stone and I were not proposing the abolition of reading other people's mail. That is precisely one of the things we are proposing to continue. It is very hard to make estimates; but I don't know anybody who has been in the government who would challenge the notion that something over ninety per cent, I would say ninety-eight per cent, of the useful information the United States government has comes either from overt sources: newspapers, public radio broadcasts, or thing of that kind—or from technical and intelligence-gathering: satellites, reading other people's mail, the kinds of things the National Security Agency supposedly does.

We are not proposing to abolish that range of activity. What we are proposing is to move it out of its Super Secrecy. For example, it is now clear to anybody who reads anything that the United States has a very large satellite program. It is still the case that anybody with a security clearance is violating the law if he says so publicly: The budget for spy satellites and the offices that runs them are buried. If you go as a Congressman or a citizen and say, "Who runs the satellite program which we read about in the newspapers all the time?" you can't find out. If you say, "How much does it cost?" you can't find out.

There is absolutely no reason in the world for either of those two facts to be secret, and no reason in the world for Congress not to be able to get into that program in executive session on a classified basis, the way it gets

an missile program or any other program.

Mr. HARRIS: Again I want to acknowledge the work of Senator WEICKER and Senator BAKER in this area.

Mr. CHURCH subsequently said: Mr. President, earlier this morning I understand that a colloquy took place here in the Senate Chamber with respect to the policy pursued by the CIA in Chile, which has now been revealed by Mr. Colby, the CIA Director, and confirmed by the President.

In connection with that colloquy, I further understand that a bill is to be introduced which would establish a joint committee of Congress with jurisdiction over the CIA, mandated to exercise surveillance over its operations.

I believe such a bill to be necessary, and I intend to join as a cosponsor of the measure.

It was not possible for me to be on the floor at the time that the colloquy took place, but I do have some newspaper columns which relate to the Chilean affair that I think could appropriately be made a part of the record in reference to the colloquy.

Mr. President, I submit for your approval and ask unanimous consent that the following articles be printed in the RECORD at the conclusion of my remarks: An article by Tom Wicker, the New York Times columnist entitled, "Secret War on Chile," and an editorial from the September 11, 1974, edition of the Christian Science Monitor.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHURCH. Mr. President, it seems to me that these two articles eloquently sum up the issues which are raised for this country arising out of the CIA's intervention in Chile for the purpose of "destabilizing" the government of the constitutionally elected President of Chile, Salvador Allende Gossens. Mr. Allende was a Marxist, and I would not have chosen him or the ideas he advocated for my own country. But the fact is that he was elected, in accordance with the electoral process established by the constitution of Chile, as President of that country.

As the Christian Science Monitor states:

It apparently is permissible for the CIA to maneuver against local governments which Washington does not like—this is deemed in the national interest—but when the U.S. declines to use its influence to dissuade repressive regimes from anti-democratic excesses—as in South Korea or Greece—this is justified as "non-interference in another country's internal affairs."

Or, as Mr. Wicker pungently puts it:

The real questions are whether this supposedly peace-loving and democratic nation has any legal or moral right to conduct covert operations abroad, and whether any Administration of either party has the constitutional authority to order taxpayers' money spent for clandestine warfare against the legitimate government of a sovereign country.

#### EXHIBIT 1

#### CIA AND CHILE

Now the facts are coming to light. The Central Intelligence Agency was not the innocent bystander in Chile that the United

States Government tried to imply it was at the time of the overthrow of Salvador Allende.

The CIA, it turns out, engaged for years in clandestine activities against the late Chilean President. CIA director William Colby acknowledged in secret testimony to the Congress that some 38 million had been authorized by a high-level intelligence committee headed by Henry Kissinger to "destabilize" Allende's Marxist government and bring about its downfall after 1970.

The disclosures are shocking and dictate the urgent need for a public scrutiny of national security policies, a reform of CIA functions, and a system of strict accountability for CIA actions. They also point again to the deception practiced by previous administrations.

The State Department sticks by its guns. It stated this week it backs the testimony of high officials who previously told Congress that the U.S. had not intervened in the domestic affairs of Chile after Allende's election.

Clearly the full story has yet to be told. In light of the developing dispute we favor full-scale public hearings into the CIA's role in Chile, as called for by Congressman Michael Harrington.

This is not the first time the CIA has been involved in questionable covert operations against foreign states. Its record includes the aborted Bay of Pigs invasion, the secret war in Laos, and efforts to overthrow governments in Iran and Guatemala. More recently, the domestic front, it furnished the White House "plumbers" with technical aid and a psychiatric profile of Daniel Ellsberg—acts that violated its mandate.

The record is disturbing.

However distasteful, clandestine operations sometimes are necessary. If a foreign power, for instance, is engaged in activities in a country that could impair American interests, it stands to reason the U.S. must know what it is up to. But gathering information and exposing Communist subversion, say, are one thing. Attempts to undermine or overthrow legitimate governments are quite another.

A distressing aspect of all this is the double standard which the U.S. has set for its international conduct. It apparently is permissible for the CIA to maneuver against local governments which Washington does not like—this is deemed in the national interest. But when the U.S. declines to use its influence to dissuade representative regimes from anti-democratic excesses—as in South Korea or Greece—this is justified as "noninterference" in another country's internal affairs.

If the CIA is permitted to abet the disintegration of constitutionally elected governments—however unpalatable their ideology—does not the U.S. lose its moral authority to condemn similar subversive action by a Communist power?

The Allende regime was hardly a model for Latin America. But the late President did carry on his Marxist experiment within the constitutional framework. If Washington chose not to render help—except to the Chilean military—that at least was an overt if debatable position.

But by colluding in the effort to undermine the Chilean Government by covert means, Washington has only helped destroy the credibility of that argument that Communists should participate in the democratic process rather than seek power through violent means.

#### SECRET WAR ON CHILE

(By Tom Wicker)

On the very day that President Ford extended preventive pardon to Richard Nixon, another high crime of the Nixon Administration was being disclosed in The New York Times. Public outrage because of the pardon

must not be allowed to obscure this sordid story of indefensible American intervention in the internal affairs of Chile, in the years just before the violent overthrow of the Allende Government and the death of President Salvador Allende Gossens.

Secretary of State Henry Kissinger appears to have been a principal force in this covert intervention, and is being charged once again with not having told the whole truth to a Senate committee. Demands are being heard for a reopening of the hearings which recommended his confirmation as Secretary.

The Times story, by Seymour Hersh, was based on a letter from Representative Michael Harrington of Massachusetts to Chairman Thomas E. Morgan of the House Foreign Affairs Committee. The Harrington letter gave an account from memory, of testimony to a House Armed Services subcommittee by William E. Colby, the director of the Central Intelligence Agency.

Mr. Harrington said he had twice read a transcript of the Colby testimony. As he described it to Mr. Morgan, Mr. Colby said that the Nixon Administration had authorized about \$8 million to be spent covertly to make it impossible for President Allende to govern. Specifically, \$500,000 was authorized in both 1969 and 1970 to help Mr. Allende's election opponents, and \$350,000 was later authorized for bribing members of the Chilean Congress to vote against ratifying Mr. Allende's election.

Later \$5 million was authorized for clandestine "destabilization" efforts in Chile; and in 1973, \$1.5 million was provided to help anti-Allende candidates in municipal elections. The authorizing body for all this C.I.A. activity was the so-called "40 Committee" of the Nixon Administration—a committee chaired by Henry Kissinger.

But Mr. Kissinger told the Senate Foreign Relations Committee during his confirmation hearings that "the C.I.A. had nothing to do with the coup, to the best of my knowledge and belief." While that may have been true in the narrowest sense, it was at best one of those torturous non-lies in which governments specialize and at worst a concealment of the true nature of U.S. policy toward the Allende Government and the scope of American activities to undermine that Government.

Similarly, Edward M. Korry, ambassador to Chile during most of the period in question, denied under oath to a Senate subcommittee that there had been American attempts to "pressure, subvert, influence a single member of the Chilean Congress." Charles A. Meyer, a former Assistant Secretary of State for Latin-American affairs, also swore that the United States had scrupulously followed a policy of non-intervention in Chile.

No wonder, then, that Senator Frank Church, to whose subcommittee this sworn testimony was offered, was reported to be outraged upon learning of the Colby testimony. He has properly raised not only the possibility of perjury charges but the question of comprehensive hearings by the full Foreign Relations Committee on the intervention in Chile.

If such hearings are held, or if Mr. Kissinger's confirmation hearings should be reopened—as they already have been once, to inquire into charges that he did not tell the whole truth about wiretaps on reporters and some of his associates—the inquiry should press much further than the candor of official testimony, important as that question is.

But as one Government official pointed out to Mr. Hersh, if covert activities against another country are authorized, Government officials—sometimes including Secretaries of State and Presidents—have to lie about them. Lies are part of the business. The real questions are whether this supposedly peace-loving and democratic nation has any legal or moral right to conduct covert operations

abroad, and whether any Administration of either party has the constitutional authority to order taxpayers' money spent for clandestine warfare against the legitimate government of a sovereign country.

These questions are long overdue for full and open debate; the Colby testimony, for example, said the first intervention against Mr. Allende was ordered by Lyndon Johnson in 1964. Congress, the press, Presidential candidates—all have consistently shied away from this subject. Supposed liberals have pled the supposed need to be "hard-nosed." The real need is to face the fact that gangster schemes of bribery, violence and even assassination are being carried out, in the name of the great American people.

The C.I.A. may be only an instrument, but it seems to have its own sinister vitality. The Chilean efforts, in fact, were authorized by the lineal descendant of a body set up by the Kennedy Administration to "control" the C.I.A. Isn't it clear at last that such "control" can be achieved only by a Government with the political will to cut the C.I.A. in half, or kill it altogether?

#### ORDER VACATING ORDER FOR RECOGNITION OF SENATOR CHURCH

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent that the order for the recognition of Mr. CHURCH be vacated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. If any Senator wishes time, I have time under an order which I shall be delighted to yield.

Mr. President, there being no request for such time, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia yields back the remainder of his time.

#### ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 9:30 a.m., with the statements therein limited to 3 minutes.

#### QUORUM CALL

Mr. ROBERT C. BYRD, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent that the order for a quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair, with the understanding that the recess not extend beyond the hour of 9:30 a.m. today.

There being no objection, the Senate, at 9:14 a.m., recessed subject to the call of the Chair; whereupon, the Senate reassembled at 9:27 a.m. when called to

order by the Acting President pro tempore (Mr. METCALF).

#### QUORUM CALL

Mr. CHURCH, Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN, Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### MESSAGES FROM THE HOUSE

At 12:30 p.m., a message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 15580) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1975; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. FLOOD, Mr. NATCHER, Mr. SMITH of Iowa, Mr. CASEY of Texas, Mr. PATTEN, Mr. OBEX, Mrs. GREEN of Oregon, Mr. MAHON, Mr. MICHEL, Mr. SHRIVER, Mr. CONTE, Mr. ROBINSON of Virginia, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 6274) to grant relief to payees and special indorsees of fraudulently negotiated checks drawn on designated depositories of the United States by extending the availability of the check forgery insurance fund, and for other purposes.

#### ENROLLED BILLS SIGNED

The message also announced that the Speaker has affixed his signature to the following enrolled bills:

S. 210. An act to authorize the establishment of the Boston National Historical Park in the Commonwealth of Massachusetts;

S. 3301. An act to amend the act of October 27, 1972 (Public Law 92-578);

H.R. 8395. An act to designate certain lands in the Okefenokee National Wildlife Refuge, Ga., as wilderness;

H.R. 12000. An act to enable egg producers to establish, finance, and carry out a coordinated program of research, producer and consumer education, and promotion to improve, maintain, and develop markets for eggs, egg products, spent fowl, and products of spent fowl; and

H.R. 13595. An act to authorize appropriations for the Coast Guard for the procurement of vessels and aircraft and construction of shore and offshore establishments, to authorize appropriations for bridge alterations, to authorize for the Coast Guard an end-year strength for active duty personnel, to authorize for the Coast Guard average military student loads, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. BAKER).

At 4:10 p.m., a message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House insists upon its amendments to the bill (S. 1283) to establish a national program for research, development, and demonstration in fuels and energy and for the coordination and financial supplementation of Federal energy research and development, and for other purposes; disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. UDALL, Mr. BINGHAM, Mr. SEIBERLING, Mr. TEAGUE, Mr. MCCORMACK, Mr. RUPPE, Mr. DELLENBACK, and Mr. MOSHER were appointed managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 14214) to amend the Public Health Service Act and related laws to revise and extend programs of health revenue sharing and health services, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. ROGERS, Mr. SATTERFIELD, Mr. KYROS, Mr. PREYER, Mr. SYMINGTON, Mr. ROY, Mr. DEVINE, Mr. NELSEN, Mr. CARTER, Mr. HASTINGS, Mr. HEINZ, and Mr. HUDNUT were appointed managers of the conference on the part of the House.

#### COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. BAKER) laid before the Senate the following letters, which were referred as indicated:

SUPPLEMENTAL APPROPRIATIONS FOR THE DEPARTMENT OF LABOR (SEN. DOC. 93-111)

A communication from the President of the United States proposing supplemental appropriations for the fiscal year 1975, involving transfers of \$7,400,000 from other appropriations, for the Department of Labor (with accompanying papers). Ordered to be printed and referred to the Committee on Appropriations.

SUPPLEMENTAL APPROPRIATIONS FOR THE DEPARTMENT OF LABOR (SEN. DOC. 93-110)

A communication from the President of the United States proposing supplemental appropriations for the fiscal year 1975 in the amount of \$9,650,000 for the Department of Labor (with accompanying papers). Ordered to be printed and referred to the Committee on Appropriations.

#### PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. BAKER):

A resolution adopted by the Council of the city of Cleveland, Ohio, memorializing the Congress to design and implement an effective program of food price control. Referred to the Committee on Banking, Housing and Urban Affairs.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MUSKIE, from the Committee on the Budget:

93<sup>d</sup> CONGRESS  
2<sup>d</sup> SESSION

## S. RES. 404

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17, 1974

Mr. MONDALE submitted the following resolution; which was referred to the  
Committee on Armed Services

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### RESOLUTION

To establish a select committee of the Senate on intelligence  
policy.

Whereas revelations concerning the role of foreign intelligence  
operations of the United States Government in undermining  
the stability of democratically elected governments have  
raised serious questions concerning the management, policies,  
and purposes of United States intelligence operations and  
their compatibility with the authority of the Congress and  
the values of the American people: Now, therefore, be it

1      *Resolved, That—*

2      SECTION 1. There is hereby established a select com-  
3      mittee of the Senate, which may be called, for convenience  
4      of expression, the Select Committee on Intelligence Policy.

1        SEC. 2. The select committee created by this resolu-  
2        tion shall consist of fifteen Members of the Senate, composed  
3        of three majority and two minority members of the Com-  
4        mittee on Armed Services, three majority and two minority  
5        members of the Committee on Foreign Relations, and three  
6        majority and two minority Members of the Senate, to be  
7        selected in the same manner as the chairman and members  
8        of the standing committees of the Senate. For the purposes  
9        of paragraph 6 rule XXV of the Standing Rules of the Sen-  
10       ate, service of a Senator as a member, chairman, or vice  
11       chairman of the select committee shall not be taken into  
12       account.

13       SEC. 3. The select committee is authorized and directed  
14       to examine past, present, and projected intelligence opera-  
15       tions and policies of the United States Government, and to  
16       determine the role of such operations in supporting the deci-  
17       sionmaking of the United States Government, and the im-  
18       pact of such operations on national security and the conduct  
19       of foreign policy. The select committee shall make an interim  
20       report to the appropriate committee of the Senate not later  
21       than June 30, 1975, and shall make a final report not later  
22       than January 31, 1974. Such final report shall contain the  
23       findings of the committee together with recommendations  
24       respecting the management of intelligence operations within  
25       the executive branch, the appropriate role of Congress, the

1 appropriate function of varying types of intelligence activi-  
2 ties, and recommendations requesting any appropriate legis-  
3 lative action.

4 SEC. 4. To enable the select committee to make the  
5 investigation and study authorized and directed by this  
6 resolution, the Senate hereby empowers the select com-  
7 mittee as an agency of the Senate to employ and fix the  
8 compensation of such clerical, investigatory, legal, techni-  
9 cal, and other assistants as it deems necessary or appro-  
10 priate; to sit and act at any time or place during sessions,  
11 recesses, and adjournment periods of the Senate; to hold  
12 hearings for taking testimony on oath or to receive docu-  
13 mentary or physical evidence (including classified in-  
14 formation respecting clandestine operations, which shall  
15 be made available to the select committee and senior  
16 staff designated by the select committee) relating to the  
17 matters it is authorized to investigate and study; and to  
18 expend to the extent it determines necessary or appropriate  
19 any money made available to it by the Senate to perform  
20 the duties and exercise the powers conferred upon it by this  
21 resolution and to make the investigation and study it is  
22 authorized by this resolution to make.

23 SEC. 5. The expenses of the select committee under this  
24 resolution shall not exceed \$750,000 per annum. Such ex-  
25 penses shall be paid from the contingent fund of the Senate

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- 1 upon vouchers approved by the chairman of the select com-
- 2 mittee.

93d CONGRESS  
2d Session

**S. RES. 404**

## **RESOLUTION**

To establish a select committee of the Senate on  
intelligence policy.

By Mr. MONDALE

SEPTEMBER 17, 1974

Referred to the Committee on Armed Services